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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the situation of human rights in Iraq, submitted by Mr. Max van der Stoel, Special Rapporteur of the Commission on Human Rights, in accordance with Commission resolution 1993/74

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I. INTRODUCTION

A. Mandate of the Special Rapporteur

1. The Special Rapporteur has referred in detail to the terms of his mandate in each of the his previous reports to the Commission on Human Rights (E/CN.4/1992/31, paras. 1-17 and E/CN.4/1993/45, paras. 1-5). Additional references have been contained in the introductory parts of his reports to the General Assembly (A/46/647, paras. 1-11; A/47/367, paras. 1-6; A/47/367/Add.1, paras. 1-5; and A/48/600, paras. 1-9).

2. To summarize the terms of the mandate of the Special Rapporteur, the mandate was originally defined by Commission on Human rights resolution 1991/74 of 6 March 1991, as subsequently approved by Economic and Social Council decision 1991/256 of 31 May 1991. In paragraph 5 of resolution 1991/74, the Special Rapporteur was requested to make "a thorough study of the violations of human rights by the Government of Iraq, based on all information the special rapporteur may deem relevant" and to report to the next session of the General Assembly and the Commission on Human Rights. By paragraphs 10, 13 and 15 of Commission on Human Rights resolution 1992/71 of 5 March 1992, as approved by Economic and Social Council decision 1992/241 of 20 July 1992, the mandate was extended and the Special Rapporteur was also requested, "in consultation with the Secretary-General, to develop further his recommendation for an exceptional response" and "in pursuing his mandate to visit again the northern area of Iraq, in particular". By paragraphs 12 and 14 of Commission resolution 1993/74 of 10 March 1993, as subsequently approved by Economic and Social Council decision 1993/279, the mandate of the Special Rapporteur was extended for another year. By paragraph 11 of the same resolution, the Commission on Human Rights further requested the Secretary-General, "in consultation with the Special Rapporteur, to take the necessary measures in order to send human rights monitors to such locations as would facilitate improved information flows and assessment and would help in the independent verification of reports on the situation of human rights in Iraq". In order to assist the Special Rapporteur in the fulfilment of his mandate, paragraph 13 urged the Government of Iraq to "accord its full cooperation to the Special Rapporteur, notably during his next visit to Iraq".

3. With regard to specific violations, the Commission strongly condemned, in paragraph 2 of its most recent resolution 1993/74, the massive violations of human rights, of the gravest nature, for which the Government of Iraq is responsible, and mentioned in particular: summary and arbitrary executions; widespread routine practice of systematic torture; enforced or involuntary disappearances; routinely practised arbitrary arrests and detention; suppression of freedom of thought, expression and association and violations of property rights; and the unwillingness of the Government of Iraq to honour its responsiblities in respect of the economic rights of the population. In paragraphs 7, 8 and 9 of resolution 1993/74, the Commission further expressed special alarm over: "the repressive policies and practices directed against the Kurds"; "the continued policy of discriminatory and repressive acts against the Shiah communities and the civilian population in southern Iraq"; and "all internal embargoes which permit essentially no exceptions for humanitarian needs".

B. Activities of the Special Rapporteur

4. Through to 4 November 1993 and the submission of his interim report to the General Assembly, the activities of the Special Rapporteur in fulfilment of his mandate are recounted in paragraphs 3 through 9 of his interim report (A/48/600); in relation to those activities, receipt of a letter from the Government of Iraq to the Special Rapporteur was also reproduced with observations in document A/48/600/Add.1. However, to briefly summarize his activities to that time, it may suffice to repeat that the Special Rapporteur has continued to make every effort to inform himself about the situation of human rights in Iraq through the widest range of information from a great variety of sources. To this end, and as foreseen by the Commission on Human Rights (resolution 1993/74, para. 11), the Special Rapporteur met the Secretary-General in New York on 4 May 1993 in order to discuss implementation of the mandate to send human rights monitors "to such locations as would facilitate improved information flows and assessment and would help in the independent verification of reports on the situation of human rights in Iraq". After some difficulties, a first mission of two staff members from the Centre for Human Rights, performing the functions of human rights monitors, was sent to the Iran-Iraq marsh frontier in southwestern Iran for some days at the end of August 1993 in order to receive testimonies from recently arrived Iraqi refugees. The information received by the human rights monitors was evaluated by the Special Rapporteur in Geneva on 23 and 24 September 1993. On 8 and 9 October 1993, the Special Rapporteur travelled to London where he received more information in the form of testimonies, documents, photographs and videos. On 30 September and 28 October 1993, the Special Rapporteur addressed letters to the Minister for Foreign Affairs of the Republic of Iraq in an effort to obtain the Government of Iraq's cooperation in facilitating his visit to the country and also to obtain the Government's views on serious allegations of human rights violations having come to the attention of the Special Rapporteur. A partial response was received by the Special Rapporteur from the Government of Iraq by letter dated 4 November 1993, which was reproduced by the Special Rapporteur as noted above.

5. On 23 November 1993, the Special Rapporteur presented his interim report on the situation of human rights in Iraq to the forty-eighth session of the General Assembly at United Nations Headquarters in New York.

6. In his continuing effort to obtain the most accurate and up-to-date information on the situation of human rights in Iraq, the Special Rapporteur requested the sending of human rights monitors to the Turkey-Iraq border in mid-December 1993 in order to receive testimonies and reports from alleged victims and eye-witnesses of human rights violations in Iraq. In the absence of the engagement of a team of human rights monitors as had been foreseen by the Commission on Human Rights in adopting resolution 1993/74 (see the resolution's programme budget implications in E/CN.4/1993/122/Add.1 and E/1993/23/Add.1, paras. 119-141), the mission was again conducted by two Centre for Human Rights staff members between 18 and 24 December 1993. Testimonies were received from a variety of witnesses along with a large amount of documentary information both in the form of script and photographs. The information received concerned allegations of present and past violations.

7. On 29 and 30 December 1993, the Special Rapporteur visited Geneva in order to evaluate the information received from the mission to the Turkey-Iraq border.

8. With respect to the two missions conducted by human rights monitors to the borders of Iraq with the Islamic Republic of Iran and Turkey, the Special Rapporteur would like to clarify that, contrary to the allegation made by the representative of Iraq to the Third Committee of the General Assembly (see page 2 of the circulated text of the 30 November 1993 speech of Dr. Mohammed A. Al-Douri), at no time did any of the human rights monitors cross into the territory of the Republic of Iraq. Of course, the Government of Iraq's continuing refusal to accept human rights monitors within the country presents obvious difficulties from the point of view of monitoring. Nevertheless, the missions were able to receive information from the large number of refugees having left Iraq and surviving on the Iranian side of the border (particularly in Khuzistan Province), while other information was obtained from persons literally on the border between Iraq and Turkey.

9. On the subject of the Special Rapporteur's efforts to see some human rights monitoring implemented according to the mandates given by the appropriate legislative authorities of the United Nations, and notwithstanding the Government of Iraq's objections and non-cooperation, it must be noted that the activities described above constitute a bare minimum which, in the opinion of the Special Rapporteur, have definitely proven their value but remain insufficient. Moreover, it must be said that these very modest activities have not been achieved easily owing to the scarcity of resources allocated for the purpose and the very slow decision-making process within the United Nations. Consequently, the Special Rapporteur must record his disappointment that to date no staff has been assigned for specific monitoring purposes nor, so far as he knows, has any discernible and secure budget been allocated for the mandate. It is obvious that the Special Rapporteur would have to know in precise terms what resources, both human and financial, will be available for monitoring purposes so as to be able to plan his activities accordingly. He therefore also notes with disappointment that the new 1994-1995 budget for the Centre for Human Rights in no way specifies the resources allocated to his mandate.

10. Despite the difficulties encountered by the Special Rapporteur as noted above, it is to be stressed that a large volume of material continues to be received on a regular basis from numerous sources. In August 1993, another 4 metric tons of official Iraqi documents, numbering about 1 million individual items, were released by Kurdish sources in northern Iraq to the care of the non-governmental human rights organization Middle East Watch which has been studying these and other documents for well over one year. The Special Rapporteur has been closely observing the work done on this important material. Through the course of 1993, testimonies continued to be received from refugees who continue to leave Iraq, despite the difficulties many report in leaving. Other forms of information, ranging from amateur video recordings to analytical reports and scientific studies, continue to be received.

11. Having taken into consideration the information described above, and having acted in the fulfilment of his mandate as also described above, the Special Rapporteur submits this final report to the Commission on Human Rights.

II. THE LEGAL FRAMEWORK

A. In general

12. In studying and assessing the situation of human rights in Iraq, the Special Rapporteur repeats once more that he has applied only those standards of international human rights law which are applicable to Iraq as a result of undertakings of its own choosing, particularly those standards articulated in the texts of the international human rights conventions to which Iraq is a Party. In addition, the Special Rapporteur has also applied those standards which ensue from international customary law.

13. The obligations undertaken by Iraq as a result of its accession to human rights conventions include the following: the Charter of the United Nations; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; and the Convention on the Prevention and Punishment of the Crime of Genocide. Other important conventions to which Iraq has freely become a State Party include the four Geneva Conventions of 12 August 1949 and the Constitution of the International Labour Organisation together with various Conventions developed under the auspices of that organization, such as Convention No. 98 of 1949 concerning the Application of the Principles of the Right to Organise and Bargain Collectively, and Convention No. 107 of 1957 concerning the Protection and Integration of Indigenous and other Tribal and Semi-Tribal Populations in Independent Countries. Other relevant conventions to which the Special Rapporteur shall refer below include the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, and the 1981 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Determined to be Excessively Injurious or to Have Indiscriminate Effects.

14. With respect to human rights obligations arising under the Charter of the United Nations, the Special Rapporteur observes that explicit obligations are found in the Preamble, Article 1, paragraph 3, Article 55 (c) and Article 56. The texts of the Preamble, Article 1 (3) and 55 (c) emphasize the obligation of non-discrimination. More importantly, the texts of the Preamble and Article 1 (3) relate to the very object and purpose of the United Nations and, therefore, constitute primordial obligations of which no other action should supersede or detract. In this connection, and in terms of the specificity of the obligations arising from the Charter of the United Nations, the Special Rapporteur also notes the texts of various human rights declarations including the 1948 Universal Declaration of Human Rights, the 1959 Declaration on the Rights of the Child, the 1963 Declaration on the Elimination of All Forms of Racial Discrimination, the 1967 Declaration on the Elimination of All Forms of Discrimination against Women, the 1974 Declaration on the Protection of Women and Children in Time of Emergency and Armed Conflict, the 1975 Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the 1981 Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, and the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

15. While the above noted complex of obligations would apply in normal situations, the Special Rapporteur feels it is necessary to recall again the prevailing regime of additional and special obligations which Iraq is bound to respect. These obligations and their implications, which were detailed by the Special Rapporteur in his last report to the Commission on Human Rights (E/CN.4/1993/45, paras. 26-31), arise as a result of sanctions legally applied to Iraq subsequent to its grave breaches of the most fundamental obligations of general international law including the invasion and occupation of Kuwait and other acts of aggression against other States in the region. Of the various obligatory Security Council resolutions having relevance in the matter of Iraq's respect for human rights, the Special Rapporteur refers to resolutions 661 (1990), 666 (1990), 687 (1991), 688 (1991), 706 (1991), 712 (1991), and 778 (1992). At the same time, the Special Rapporteur notes as he has done before (E/CN.4/1992/31, paras. 22-39) that there exist no special circumstances which would serve as permissible excuses for Iraq's continued violation of a wide variety of human rights obligations, nor is the Special Rapporteur aware of the Government of Iraq yet having notified the Secretary-General of any permissible derogations.

B. The northern Kurdish territory

16. In view of the peculiar and persistent situation in the northern, predominantly Kurdish, territory of Iraq from which the Government of Iraq withdrew its administration in October 1991, the Special Rapporteur considers it necessary to return to the question of responsibility for the almost four million inhabitants of this area. In his last report to the Commission on Human Rights, the Special Rapporteur explained the basic problem of both international and internal economic sanctions facing the population while the Government of Iraq has invoked its territorial sovereignty to limit international humanitarian assistance to the region and, at the same time, to disclaim any responsibility for the region (E/CN.4/1993/45, paras. 32-33).

17. The Special Rapporteur observes that nothing significant has changed over the last year in relation to the northern Kurdish territory. As the precarious situation stretches towards two and one-half years, the economic, social and security situations may be seen to be deteriorating (as detailed in A/48/600, paras. 69-81, and below in paragraphs 99-103). For its part, the Government of Iraq continues to enforce a severe internal economic embargo which admits to virtually no humanitarian exception. At the same time, the Government has reiterated its disclaimer of responsibility for any event in the territory (see, e.g., the response of the Government to an appeal from the Special Rapporteur on extrajudicial, summary or arbitrary execution in E/CN.4/1994/7, para. 375). The resultant situation, which the Special Rapporteur has previously characterized as "an intolerable lacuna" (E/CN.4/1993/45, para. 33), thus continues to the detriment of those who find themselves at risk in the region (both citizens of Iraq as well as foreign nationals delivering humanitarian aid).

18. In response to the peculiar situation in the northern Kurdish territory of Iraq, the Special Rapporteur has argued that, without in any way prejudicing the territorial integrity of the State of Iraq, the Charter of the United Nations places a residual obligation on the international community to fulfil the humanitarian needs of the affected population (E/CN.4/1993/45, para. 33). The specific legal framework through which such an obligation may be seen to devolve upon the international community is to be found in the purposes of

the United Nations as articulated in Article 1 of the Charter, particularly paragraphs 1 and 3 — the interaction of which may be said to be the basis of Security Council resolution 688 of 5 April 1991. This interpretation of a multilateral and universal duty on the part of each State Member of the United Nations to ensure respect for human rights in relation to each other, but especially in relation to all human beings above all where there is a vacuum of individual State responsibility in the traditional sense, is supported by the judgment of the International Court of Justice in the Barcelona Traction Light and Power Company case where the Court stated that "the principles and rules concerning the basic rights of the human person ... [are] by their very nature ... the concern of all States. In view of the importance of the rights involved, all States can be held to have a legal interest in their protection; they are obligations erga omnes" ((Belgium v. Spain) (Merits), I.C.J. Reports 1970, paras. 32-33, p. 32). In the specific circumstances under discussion, the Special Rapporteur believes that the individual and collective responsibility of States to ensure respect for humanitarian principles entails at least an obligation to provide foodstuffs and medicaments to those in need in the northern Kurdish territory in the absence of any other responsible party and notwithstanding any objections by the Government of Iraq. This is all the more so where, as in the case at hand by virtue of Security Council resolution 688, it has been determined that matters of peace and security are at issue.

III. ALLEGED HUMAN RIGHTS VIOLATIONS

A. Violations affecting the population in general

1. Extrajudicial, summary or arbitrary execution

19. The Special Rapporteur has reported on allegations of violations of the right to life in each of his previous reports to the Commission on Human Rights (E/CN.4/1992/31, paras. 40-50; E/CN.4/1993/45, paras. 34-41) and the General Assembly (A/46/647, paras. 19-21, 55 and 71-73; A/48/600, paras. 14-23).

20. Since the submission of his last report to the Commission in February 1993, the Special Rapporteur has continued to receive reports from several sources indicating that the phenomena of arbitrary executions and killings remain widespread throughout the country. The information received refers to several types of killings involving all strata of the population, irrespective of ethnicity, religion, language or geographical location. Hundreds of executions were reported in detention. In the overwhelming majority of these reports, it is believed that no trial took place, let alone a fair trial. Victims of executions which may have involved judicial processes were reportedly charged with crimes ranging from the stealing of cars to involvement in an attempted coup d'état. But, even in cases where judicial procedures were said to have been made available, the Special Rapporteur is seriously concerned about the fairness of such procedures for reasons which are elaborated below. In the light of the numerous reports on extrajudicial activities by Iraqi authorities, he fears that these procedures fall short of the requirements of due process of law. Arbitrariness would also appear in the imposition of the death penalty in cases of property crimes, where the Special Rapporteur considers the sentence disproportionate to the alleged crime. In addition to what may be described in Iraq as "normal" executions (whether or not following any judicial process), the Special Rapporteur received numerous reports on the arbitrary killing

of civilians, including women, children and elderly, in indiscriminate attacks by Government forces. In the following paragraphs the Special Rapporteur will illustrate the different types of killings on the basis of a distinction between executions in detention, executions in connection with property crimes, political killings and killings in indiscriminate attacks.

21. Several sources have reported on the mass execution of prisoners in detention centres such as Al-Radwaniyah and Abu Ghraib in central Iraq. Hundreds, among whom there were said to be many Shiah from southern Iraq, were reportedly executed by firing squad in the months of August and September 1993. It is reported that many of them were arrested in the crackdown on the Shiah population which followed the uprisings in 1991. Several more had been arrested during the month of Muharram (20 June to 19 July 1993 according to the Gregorian Calandar). In many cases, the victims were alleged to have been tortured prior to execution; family members who were called to collect the mutilated bodies were not allowed to hold mourning ceremonies. Other reports on the execution of persons in detention originate from the city of Al-Amara in southern Iraq. In the northern part of the country near Kirkuk, several Turkomans were reportedly executed at the end of June 1993. It was also reported that their bodies, which were returned to the families almost three weeks after execution, bore marks of torture. In November 1993, four civilians (two men and two women) were reported to have been hanged in Kirkuk after which their bodies were said to have been thrown on the highway between Kirkuk and Baghdad.

22. Several persons are believed to have been executed for having committed property crimes which, according to Iraqi law, may carry the death penalty. On 4 December 1992, the Iraqi newspaper Al-Thawra announced that six persons had been sentenced to death by hanging for offences related to the stealing and smuggling of cars. In this connection, the newspaper referred to Revolution Command Council Decree No. 13 of 1992, according to which the death penalty can be imposed on persons convicted of car-theft. The Special Rapporteur notes that, in response to an appeal on this matter issued by the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Government of Iraq has explained that Decree No. 13 of 1992 is aimed at curbing such property crimes in time of war (see E/CN.4/1994/7, paras. 369-379). However, the Special Rapporteur is aware of no war in which Iraq was engaged either at the time of the promulgation of the said Decree nor at the time of its application as noted above. Apparently along the same lines, the Revolution Command Council adopted Decree No. 30 of 17 February 1993 which equated trade in contraband goods with the crime of economic sabotage during war time, thereby making offenders liable to execution, life imprisonment or detention for a period not less than 15 years. The Special Rapporteur recalls that a similar law was the basis of the execution by hanging of 42 merchants accused of profiteering in June 1992 (see E/CN.4/1993/45, para. 35). In the light of this incident, fears have been expressed concerning the fate of 29 merchants who were reportedly charged with profiteering at the beginning of 1993. The majority of the 29 traders were Sunni Muslims of whom seventeen were from the prominent Al-Kubaysi family. It has been alleged that their arrest may have been politically motivated. In another incident of 3 November 1993, a Jordanian restaurant owner in Baghdad was allegedly executed on the accusation that he had passed "economic information" to Kuwait. While the Special Rapporteur notes that the death penalty is not forbidden under international law, it is to be equally noted that, according to Article 6 (2) of the International Covenant on Civil and Political Rights, the death penalty is only to be prescribed for the most serious

offenses. The lack of an adequate relationship between the seriousness of alleged criminal activity in the economic sphere and the seriousness of the punishments prescribed and administered indicates a violation of Article 6 (2).

23. Political killings have reportedly claimed the lives of several prominent Iraqis. For example, in November 1993, reports were received on the execution of several well-known persons, including former army officers, government officials and lawyers. They had reportedly been arrested in June and August 1993 together with many other notables in connection with an alleged plot against President Saddam Hussein. Some of them apparently came from leading Sunni families in Tikrit where the President is strongly supported. Those executed were reportedly shot. However, their families were said to have received death certificates indicating heart attacks as the cause of death. Reports further mention that families to whom bodies were returned were not allowed to hold public mourning ceremonies. Other allegations of political killings have also been received, including some alleging the involvement of Iraqi secret agents in assassinations in the northern Kurdish territory.

24. Arbitrary killings of civilians in deliberate and indiscriminate attacks have been reported in both the southern and the northern parts of the country. Indiscriminate attacks in the southern marsh area continued to take place during 1993. The Special Rapporteur refers in this regard to his most recent interim report where he addressed the issue at length (see A/48/600, paras. 14-23).

25. Perhaps the most disturbing fact in relation to allegations of arbitrary executions and killings in Iraq is a Revolution Command Council Decree of 21 December 1992 which grants immunity from prosecution to Baath Party members, security forces and others in support of the Government who may cause damage, injury or death while in the pursuit of draft evaders or army deserters. The Special Rapporteur fears that this Decree, which (so far as the Special Rapporteur is aware) remains in force, may be the cause of many more unreported arbitrary killings in violation of the rights to life as prescribed by Article 6, paragraphs 1 and 2, of the International Covenant on Civil and Political Rights. Indeed, viewed together with the wide range of offences for which the death penalty is prescribed by Iraqi law and, apparently applied, and further taking into account the severe constraints on the due process of law in Iraq (as elaborated below), the Special Rapporteur finds no evidence of actions taken by the Government of Iraq to prevent arbitrary killings by Government security forces (let alone members of a political party) as General Comment 6/16 of the United Nations Human Rights Committee indicates is required (CCPR/C/21/Add.1, General Comment 6 [16], para. 3). Worse yet, there is evidence to suggest that Governmental actions may encourage arbitrary and extrajudicial killings, such as Revolution Commmand Council Decree No. 111 of 28 February 1990 which grants immunity to men killing their "mother, daughter, sister, aunt, niece or cousin" should the women have committed "immoral deeds" (they may also kill the offending men who have been involved with their female relatives). The absence of judicial control over such important matters causes the Special Rapporteur to marvel at the scope for abuse that such laws clearly afford.

2. Enforced or involuntary disappearances

26. Reports on the widespread phenomenon of disappearance affecting the Iraqi population continued to reach the Special Rapporteur during the past year. The Special Rapporteur has addressed the phenomenon in his previous reports to the Commission on Human Rights (E/CN.4/1992/31, paras. 60-64 and E/CN.4/1993/45, paras. 42-49). As he has done before, the Special Rapporteur again refers to the reports of the Working Group on Enforced or Involuntary Disappearances. During 1993, the Working Group transmitted 1,360 newly reported cases of disappearance to the Government of Iraq, whereby the total number of cases transmitted reached the number of 10,570. Cases of disappearance in Iraq were first reported to the Working Group in 1984. Yet, in the course of the years of its work, a mere 107 cases have been considered clarified on the basis of information provided by the Government.

27. In addition to those cases already transmitted to the Government of Iraq, the Working Group reports that it has approved the transmission of some 5,000 cases from the district of Kalar in the Governorate of Suleimaniyah. These cases will be transmitted to the Government in the course of 1994 and will be added to the statistics after transmission. Many hundreds of other cases have been received by the Working Group, but they have still to be processed and may be taken up by the Working Group in the near future.

28. The majority of the reported cases of disappearance occurred in the northern Kurdish part of the country and in the predominantly Shiah southern part of Iraq. In most cases, "security forces" were identified as the forces believed to be responsible for the disappearance. Among those said to have disappeared were men, women, children and elderly from different ethnic and religious communities.

29. Large numbers of disappearances were reported in the early 1980s when many Shiah boys and men "accused" of "Iranian origin" were arrested and never heard of again. In 1983, following an Iranian battle-victory in the Iran-Iraq war, thousands of Kurdish Barzani tribesmen, suspected of collaboration with Iran, were reportedly rounded up and taken away to unknown destinations. Most cases of disappearance, however, relate to the so-called "Anfal" campaign launched by the Government in the northern Kurdish region in 1988. During and after the uprisings in the spring of 1991 (following the withdrawal of Iraq from Kuwait), many more civilians reportedly disappeared in the hands of Government forces. Among the victims were inter alia 105 relatives and advisers of the Grand Ayatollah Abul Qasim al-Musawi al-Khoei. In connection with the Iraqi occupation of Kuwait, the Special Rapporteur further notes the disappearance of several hundred Kuwaitis and third-country nationals, who are believed to have been arrested during the Iraqi occupation of Kuwait for their perceived hostility towards Iraq. At present, reports from several sources indicate widespread arbitrary arrest and subsequent disappeareance in the southern marsh area of Iraq where the Government is involved in a counter-insurgency campaign which bears similarities to previous Government operations aimed at punishing the population.

30. Whereas the overwhelming majority of disappearances seems to have coincided with popular uprisings inside the country and with Iraq's armed conflicts with Iran and Kuwait,

the Special Rapporteur is also aware of cases which appear to be unconnected to such occurrences.

31. In several incidents, reported disappearances have been corroborated by personal testimonies and documentary evidence. Several names of those believed to have disappeared in the district of Kalar in the spring of 1988 appear on lists found in Iraqi security offices during the uprisings. One letter dated 16 April 1988 from the "Oil Protection Forces" to the Security Directorate of Tamim contains the names of 29 persons whose disappearance has been reported to the Working Group on Enforced or Involuntary Disappearances. The letter mentions that the persons listed in the attachment (89 in total) surrendered to their units the day before and requests Security to take the necessary measures in accordance with the instructions from the Bureau for the Organisation of the North. According to the letter, the persons listed are "subversives", "deserters" and "draft evaders", some of whom were carrying their weapons on surrender. In other instances names of disappeared persons, obtained by the non-governmental organization Middle East Watch during interviews with family members, were found in Government correspondence containing names of persons arrested by Government troops. In another case a woman interviewed at the Turkish-Iraqi border in December 1993 told a United Nations human rights monitor about her son who had gone missing in February 1987 after his arrest by Security forces at the Institute of Technology in Mosul. During the uprisings in 1991 his death certificate was reportedly found in the Security Offices of Arbil. Later, his body was said to have been identified in a mass grave in Arbil; according to testimony, the conditions of the victim's skeletal remains indicated that he had died under torture.

32. With regard to the Kuwaitis and third country nationals who disappeared during the Iraqi occupation of Kuwait, the Special Rapporteur notes that he has received from the Government of Kuwait files containing very detailed information on hundreds of individual cases. These cases still have to be analysed and assessed on an individual basis.

33. The Special Rapporteur has received information indicating that several foreigners may still be held in Iraq. He refers in this regard to reports of eyewitness accounts of arrests and statements by former prisoners who have been repatriated and who report that they had been detained with some of those said to be still missing. In this connection, however, the Special Rapporteur also notes that the Government of Iraq claimed in January 1992 to have "meticulously fulfilled the commitments contained in paragraphs 30 and 31 of Security Council resolution 687 (1991)" concerning the repatriation of all prisoners arrested in the course of its occupation of Kuwait (E/CN.4/1992/64, para. 1).

3. Torture and other cruel, inhuman or degrading treatment

34. Allegations concerning the phenomenon of torture and other cruel, inhuman or degrading treatment or punishment have previously been addressed by the Special Rapporteur in his reports to the Commission and the General Assembly (E/CN.4/1992/31, paras. 51-59, 141 and 149; A/46/647, paras. 17-18, 55, and 68-70; A/47/367/Add.1, paras. 39, 48 and its annex; and A/48/600, para. 29). On the basis of the information received throughout the past years, it appears that hardly anybody kept in an Iraqi detention centre escapes subjection to physical or psychological abuse often amounting to torture (for a list of some of the

different methods of torture which have been reported, see E/CN.4/1992/31, para. 57). Especially during the first period of detention, when interrogation typically takes place, many prisoners have reportedly been subjected to severe physical torture at the hands of the Security forces. As a form of psychological torture, it has been reported that detainees have been often forced to watch the torture inflicted upon others. In several cases, detainees claimed to have had to watch the execution of other inmates. Reports have further referred to the torture of family members, including children, of suspected political opponents.

35. Recent reports, including first-hand testimony from different parts of the country, indicate that torture remains widespread and continues to be used as a method of extracting confessions and punishing and terrorizing the population. In several cases it was reported that people died as a result of torture. A senior air force officer from Mosul arrested in connection with the reported attempted coup d'état was said to have died in detention in early September 1993; his corpse allegedly bore marks of torture. Another report concerns the death under torture of a 16 year old boy in Radwaniyah prison. Reports further indicate that several victims of alleged extrajudicial killings were subjected to torture prior to execution. In this regard the Special Rapporteur refers to the paragraphs below where he addresses reports on arbitrary executions in detention centres. When the bodies were returned to their families, many were said to have shown marks of severe torture. For example, one of the Turkomans said to have been executed at the end of June 1993 reportedly had his eye gouged out. Documents found in Iraqi Security offices after the March 1991 uprisings corroborate these allegations in as far a some documents listing executed persons refer to some who died "in the course of interrogation"; six persons on one such list were 17 years of age or younger. Testimony received from recently released long-term detainees alleges that mistreatment and torture continue in centres of detention.

36. Several reports have been received on sexual assault, including rape, during detention. A man who had been detained in the General Security Directorate in Baghdad for 20 months up to October 1993 claimed he had been raped several times by Security officers. Testimonies received in the course of previous years seem to confirm that sexual assault has been a not uncommonly practiced method of torture. The Special Rapporteur especially notes in this regard the testimonies of female victims: one Kurdish woman recently interviewed claimed to have been stripped, beaten and burned with cigarettes all over her body in 1989; she also claims to have been coarsely fondled, stretched nude over a ladder through which an electric current ran, and was constantly threatened with rape. Alleged female victims of torture recently interviewed also appeared despondent and complained of severe depression — something said to be common among most young women who have suffered the same or similar fates. Several other women were reportedly threatened and, for example, were shown videos of female prisoners being raped.

37. Among recent victims of torture were said to be many young men suspected of oppositional activities. One man accused of participation in the March 1991 uprisings said that he had been subjected to electrical shocks, beatings and burnings all over his body and had been forced to watch the execution by firing squad of a young woman during his detention in Radwaniyah prison.

38. Several of the above testimonies have been obtained from torture victims who survived and were finally released, often in exchange for large amounts of money. An aspect which is, however, often overlooked is the torment of the traumatic experiences which these people continue to suffer; in many cases the torture has caused physical disability and considerable mental injury. This, in turn, frequently affects relations with family, friends and other members of their communities. The Special Rapporteur notes in this regard the particularly difficult situation of women who have been sexually assaulted during their detention. These women have not seldom become isolated within their own community as a result of the feeling of shame associated with this method of torture.

4. Arbitrary arrest and detention, and due process of law

39. The Special Rapporteur has previously addressed the subject of arbitrary arrest and detention in his reports to the Commission on Human Rights (E/CN.4/1992/31, paras. 65-66, and E/CN.4/1993/45, paras. 55-58) and to the General Assembly (A/46/647, paras. 14-15, and A/48/600, paras. 24-30). Reports of widespread arbitrary arrest and detention, in violation of Article 9 of the Universal Declaration of Human Rights and Article 9 of the International Covenant on Civil and Political Rights, have continued to be received throughout the last year.

40. A common feature of almost all reports of violations of personal integrity rights is the initial arbitrariness of arrest and detention. Indeed, so common do these phenomena appear to be in Iraq that few allegations of violations of personal integrity rights any longer bother to detail the specific elements of arrest and detention. However, reports and testimonies have established the widespread nature of these phenomona which often precede further assaults, abuses, disappearances and sometimes death.

41. The great majority of reports of arbitrary arrest received by the Special Rapporteur in the last year relate to the southern part of the country, both in the marshes and the urban centres. In this regard, the Special Rapporteur refers to his most recent report to the General Assembly (A/48/600, paras. 24-30) where he addressed the specific problem in detail. In particular, allegations indicate a concentration of arrests during the month of Muharram. Recent reports refer to arrests in the course of military operations said to have been carried out near Kahla and Musharrah in the Fall of 1993. In April 1993, the Special Rapporteur received allegations of house-to-house searches accompanied by arbitrary arrests in various quarters of Baghdad; many merchants were also reported to have been arrested at the same time in an effort to counter "economic crime" and "speculation". Recently, the Special Rapporteur has received allegations relating to arbitrary arrests in Baghdad in January 1994 and in the towns of Mansouriah and Bedrah at the beginning of February 1994. The Special Rapporteur further remains concerned about the large number of persons who are reported to be arbitrarily detained throughout the country as a result of previous arbitrary arrests or maladministration of justice effected, for example, through the judgements of special courts not having respected the due process of law. In this connection, the Special Rapporteur received the testimony of a Kurd who claims to have been released from Abu Ghraib prison in September 1993 after seven years of imprisonment for "political offenses" pusuant to a judgement of the former Revolutionary Court the procedures of which in no way met the requirements of fair trial.

42. A variety of armed forces of the military and security services have been cited in reports and testimonies as being responsible for arbitrary arrest and detention in Iraq. However, the overwhelming majority of allegations refer to the forces of Security (Amn) and Baath Party Intelligence (Mukhabarat), with reports from southern Iraq mainly referring to the forces of Special Security (al-Amn al-Khas). In this connection, the Special Rapporteur notes a literal absence of any references to violations attributed to the police who might normally be expected to be responsible for effecting arrests and supervising detentions.

43. According to a very recent study conducted by the International Commission of Jurists and entitled "Iraq and the Rule of Law", the arbitrariness of arrest, detention and the administration of law in general in Iraq results from the absence of legal guarantees ensuring the due process of law as required by Articles 10 and 11 of the Universal Declaration of Human Rights and Articles 9 and 14 of the International Covenant on Civil and Political Rights. While the Special Rapporteur has previously commented upon this problem in the light of allegations he had received, the study of the International Commission of Jurists reveals that, as a matter of both law and policy, the judiciary is wholly subservient to and dependent upon an unaccountable executive in the institutions of the Revolution Command Council and the President of the Republic. Notwithstanding provisions in the 1970 Provisional Constitution which declare the independence of the judiciary subject to no other authority than the law, the structure of the State essentially reserves law-making power for the Revolution Command Council which, subject to no judicial supervision, can and does interfere with the administration of justice by promulgating decisions which obstruct or specifically alter the work of the judiciary: the decisions of the Revolution Command Council are final and the courts must apply them even if they are contrary to the Constitution. One important aspect of these decisions has been their use to limit or bypass the competence of ordinary courts to hear certain cases, thereby granting impunity to serious human rights violators.

44. Examples of the interference of the executive in the functioning of the judiciary are many and well-known; they may be both of a general nature or with specific effect in individual cases. Interferences are also found in all aspects of normal judicial competence in matters ranging from property and commercial law, to family law and criminal law. For example, Act No. 1020 of 13 September 1983 (extended by Decision No. 793 of 5 October 1986) has postponed the hearing of actions brought by Iraqi contractors against Ministries in the vast "socialist sector" of the economy, while Decision No. 885 of 4 July 1987 annulled a judgement handed down by a Baghdad conciliation court in a specific case. In criminal matters, Act No. 986 of 21 July 1981 (see Document No. 1 of Annex I) and Act No. 749 of 15 September 1986 prohibit the courts from hearing any cases against the units assigned to track down deserters and evaders of military service if those units were "obliged to use force, resulting in the infliction of physical injury or material damage", while Decisions No. 707 of 27 August 1986, 714 of 31 August 1986 and 684 of October 1989 suspend legal proceedings against persons accused of major offences (including murder) and order their release without giving any specific reasons. Yet another disturbing Revolution Command Council Decision is that of No. 1219 of 7 November 1984 which stipulates that government officials sentenced to imprisonment for embezzlement of State funds may not be released upon completion of their sentences unless the embezzled funds have been returned — thus imposing a de facto life sentence for those so unable to return the funds.

45. Apart from the interference of the Revolution Command Council in the work of the ordinary courts, the existence of a system of special and emergency courts also affects the proper administration of justice. It is worth noting that the Iraqi Constitution does not prohibit the establishment of such courts, nor does it contain any provisions concerning every person's right to a fair trial by a competent and independent tribunal. The special and emergency courts are normally established by the Revolution Command Council to deal with offences which pose a threat to the internal or external security of the State. However, the Council may extend the mandate of these courts to include cases which normally fall within the jurisdiction of ordinary criminal courts (e.g., Decision No. 1016 of August 1978 which extended the jurisdiction of the Revolutionary Court). Whereas the ordinary courts would normally provide minimum legal safeguards to the citizens (assuming no executive interferences), the same cannot be said about the special courts: the tribunals usually consist of military officers or civil servants with no legal training; the trials are normally conducted in camera and the defendants are not permitted free and unsupervised contacts with their lawyers (should any lawyers be allowed). Moreover, the judgements of the special courts are final and cannot be contested before any other body. However, Act No. 6 legislated by the Revolution Command Council in 1985 allowed the President to annul Revolutionary Court judgements and/or order the Revolutionary Court to retry a case should the President have been displeased with the judgement, while Act No. 50 legislated by the Revolution Command Council in 1986 allowed the President to order the indefinite suspension of proceedings before the Revolutionary Court at any time.

46. Beyond the Provisional Constitutional order which has prevailed in Iraq through the last quarter century, official Iraqi documents in the possession of the Special Rapporteur also corroborate reports and testimony alleging that other centres of power effectively and substantially usurp judicial capacities both in administering their own "justice" and in specifically excluding the competent judicial bodies from performing their functions. For example, a regional Bureau of the Arab Baath Socialist Party ordered, by letter dated 19 February 1989, the execution of "criminals" without any reference to judicial bodies — not even a special "examining court of the General Directorate of Military Intelligence" (see Document No. 2 of Annex I).

5. Freedom of opinion, expression and association

47. The first sentence of Article 26 of the Provisional Constitution of Iraq stipulates that "freedom of opinion, publication and assembly, as well as freedom to demonstrate and freedom to establish political parties, trade unions and associations are recognized in accordance with the aims of the Constitution and within the limits of the law." However, the second sentence of the same Article places a significant limitation on the freedoms declared in the first sentence by providing as follows: "The State will endeavour to provide facilities needed for the exercise of these freedoms, which are consistent with the nationalist and progressive policy of the Revolution." More importantly, even the thus limited rights provided for in Article 26 have been rendered meaningless by subsequent legislation, Revolution Command Council decisions and general practice.

48. With respect to freedom of opinion, it is necessary to underline the fact that Iraq is a single-party, socialist State where the Constitution of the ruling Baath Party restricts (in

Article 18) the freedom of belief within the limits of "the Arab State ... in the light of past experiences of the Arab nation." Furthermore, Leading Party Act No. 142 of 1974 requires every element of government (which is extensive and dominant in the State) to "adopt the political report of the Eighth Regional Congress of the Arab Baath Socialist Party, which guides the authorities of the State, as a programme and guideline for their work." Thus, oppositional views have been silenced if not specifically outlawed as is the case for those of the Islamic Da'wa Party, the Baha'i religion or the Communist Party.

49. Reports and testimonies received by the Special Rapporteur uniformly allege that there is absolutely no freedom of expression in Iraq; even in the privacy of one's home and among family members, the fear of informers and subsequent severe reprisals has prevented virtually the entire population from expressing genuinely held opinions which are not consistent with those of the Government. Such fears appear well-founded in view of the continuing force of laws like Revolution Command Council Decree No. 840 of 4 November 1986 which prescribes severe penalties, including the death penalty, for anyone insulting the President of the Republic, the Revolution Command Council, the National Assembly, the Government or the Baath Party. The criminalization of various forms or content of expression is also obtained in the Penal Code through provisions such as Section 214 which prohibits "singing a song likely to cause civil strife" or Section 215 which prohibits the possession, procurement or distribution of "pictures, drawings or written material likely to disturb public security or impair the prestige or standing of the country, with a view to giving a false or distorted impression of events".

50. The Special Rapporteur is in possession of official Iraqi documents which demonstrate the extent of Governmental supervision and application of the extreme and harsh restrictions on freedom of expression. For example, one document dated 22 March 1989 describes the arrest of members of a theatrical troupe for having recited poems and jokes of a so-called "hostile political nature" (see Document No. 3 of Annex I). Another document, dated 9 May 1987 and addressed to the present Minister of Defense, Ali Hassan al-Majid, describes the arrest and interrogation of a depressed schizophrenic for having publicly expressed his opinion about governmental administration and current events; the recipient of the letter scribbles the note "I am astonished to discover that he is still alive!!" (see Document No. 4 of Annex I). A third document, dated 12 June 1991, orders the execution without judicial reference of "any Kurd" who even "attempts to insult a member of the armed forces" (see Document No. 5 of Annex I). Other documents in the possession of the Special Rapporteur refer, e.g., to the confiscation of the property of persons having participated in anti-Government demonstrations in London (see Document No. 6 of Annex I), the monitoring of conversations and sermons of clerics, and the effective brainwashing of children (see Document No. 7 of Annex I).

51. With regard to "the freedom to seek, receive and impart information and ideas of all kinds" according to Article 19 of the International Covenant on Civil and Political Rights, it should further be noted that all means of communication, including the press, television, radio and the news agencies, are State-owned, except for a few less influential publications. The Government has also strengthened its control over the information media through a series of enactments, such as Press Act No. 206 of 1968, which prohibits the writing of articles on 12 specific subjects, including anything that may be deemed detrimental to the President, the

Revolution Command Council or the Revolution; Section 16 of this law penalizes violations with terms of imprisonment entailing compulsory labour. Thus, the Government has transformed the media into a propaganda machine through which it can dominate and control the flow of information. The Ministry of Culture and Information Act No. 94 of 1981 is also noteworthy insofar as it stipulates that the Ministry is to develop all aspects of culture "in accordance with the principles of the Arab Baath Socialist Party and the objectives of the Glorious Revolution of 17-30 July 1968" and the "dissemination, promotion and inculcation of the ideology and principles of the Arab Baath Socialist Party in Iraq". These provisions illustrate the central role played by the Baath Party in the formulation of policies concerning information and culture.

52. It is evident that the Government's total domination of the media together with the existence of a range of strict laws and regulations concerning other forms of expression, including artistic forms, seriously undermine the possibility of the citizens freely expressing their opinions. This freedom is said to be further circumscribed by the activities of the Security services and their extensive network of informers which reportedly spreads fear and suspicion among the population. This allegation is supported by a large number of official Iraqi documents which reveal the existence of a vast network of informers, describe their activities and show how their information is used.

53. In examining the freedom of association in relation to the right to work, the Special Rapporteur notes the severe limitations on the right to organize trade unions. Under Iraqi law, the establishment of trade unions is regulated by Act No. 52 of 1987. Its provisions are applicable to employees in the public, mixed and cooperative sectors. However, employees of the public sector do not have the right to establish their own organization or to join any other trade union. This is remarkable given the fact that approximately 30 per cent of the working population is engaged in the public sector. In practice there exists only one effective trade union, the General Federation of Trade Unions, which comprises all other trade unions and supervises their activities. Strikes and similar actions are prohibited under the Labour Law of 1987. Such restrictions and prohibitions are clearly in violation of Article 8 of the International Covenant on Economic, Social and Cultural Rights. In this regard, the Special Rapporteur also wishes to draw attention to the fact that Iraq is a State Party to the 1919 Constitution of the International Labour Organisation (ILO) which guarantees the freedom to associate in its Preamble and also in Part I.B of the Declaration of Philadelphia which is annexed to and forms an integral part of the ILO Constitution. Furthermore, Iraq is a Party to ILO Convention No. 98 on the Right to Organise and Bargain Collectively.

54. With respect to interferences with freedom of association, it is to be recalled again that Iraq remains a single-party State where no oppositional associations or groups are permitted to function. The Special Rapporteur has in his previous report to the Commission on Human Rights referred to a Baath Party document (E/CN.4/1993/45, para. 61 and Doc. 1 of Annex I thereto) which condemns to death: "any member of the Arab Baath Socialist Party who deliberately conceals his previous party-political links and affiliation"; any present or past member who "had connections with any other party or political body"; and any member who "after leaving the Party, joins and works for, or in the interest of, another party or political body". The evident effect of such a strong condemnation is to reduce, if not

eliminate, any other political association than the ruling Baath Party. It should also be noted that this decision has apparently been issued by the Baath Party itself and not, as could be expected, by a legislative or judicial body.

6. Freedom of movement and residence

55. Article 12 of the International Covenant on Civil and Political Rights provides for freedom of movement and residence. Having ratified the Covenant, the Government of Iraq has agreed to guarantee this right as it appears to do in its domestic law by virtue of Article 24 of its Provisional Constitution of 1970. In keeping with the requirements of the Covenant, Article 24 stipulates that no citizen may be prohibited from leaving or returning to the country nor may his movements or residence within the country be restricted except in such circumstances as are defined by law.

56. Despite the apparent Constitutional guarantees, information received by the Special Rapporteur indicates that freedom of movement is severely restricted in Iraq, in particular the right to leave the country. Many reports indicate that there has been a de facto ban on travel from the country for the population since the early 1980s to the present time. Exit from the country requires possession of specific Government authorization which it is well-known to be difficult to obtain. Applications for exit visas require certificates of nationality and security clearances which many citizens either do not have or cannot obtain. In connection with the requirement of a security clearance, many citizens have reportedly been denied travel permits on the basis of suspected oppositional opinions or activities. In several cases, persons in detention were known to have been forced, upon their release, to sign a document which inter alia prohibited their travel and, in many cases, that of members of their families. Regarding the freedom of movement of women, it is said that they, in addition, require approval from their husbands in order to leave the country; unmarried women are said to require the permission of their father or a brother, while unmarried women without a living father or brother are apparently not allowed to travel. Only a few citizens, including government officials, approved students and pilgrims, have been exempted from these restrictions. In many cases, however, their loyalty to the Government had already been established by previous investigations. For example, only students with a Government scholarship would be in a position to leave the country in order to pursue studies abroad. In addition, it is to be noted that family members remaining behind often serve as guarantors of their children's return, since they could be at risk of economic or other reprisals should a relative not return.

57. In the beginning of 1990, travel restrictions were reportedly partially lifted. However, they were reimposed following Iraq's invasion of Kuwait on 2 August 1990. In May 1993, the Government reportedly imposed a tax of 15,000 Iraqi Dinars on citizens travelling abroad — an enormous sum of money for virtually every Iraqi, constituting well over an average annual salary (at the official Government exchange rate of 3ID to $US1, the travel tax equates with US$45,000). It is clear that such a measure is of a discriminatory nature as it reserves travel abroad for only the most privileged who can either pay the large sum of money or obtain exemption from the tax by virtue of some Government entitlement or on the basis of some other loyalty to the Government. Those accused of leaving or trying to leave the country and entering or trying to enter it without due regard to the provisions

of Passport Act No. 84 of 1983, which regulates travel abroad, can be sentenced to imprisonment and have all of their movable and immovable property confiscated. Moreover, according to Article 1 (c) of the Passport Act, the same punishment is to be applied to persons who incite or help others to leave or enter illegally.

58. With regard to restrictions on the freedom of movement inside the country, the Special Rapporteur notes the existence of an extensive system of checkpoints throughout the country, in particular on the roads between large cities and in sensitive regions and quarters. Many reports have been received on the harrassment of citizens by the Government officials guarding the checkpoints. For example, one testimony of a pensioner from the Kurdish administered region who travelled every three months to the Government controlled town of Altun Kubri in order to receive his pension, as required by Iraqi regulations, alleges arbitrary detention and verbal abuse for several hours, together with occasional robbery, at any of a number of checkpoints along the way. As the harrassment increased, the witness decided in December 1993 that it was no longer worth the effort to attempt to collect his pension. On the 80 kilometre road between the holy cities of Karbala and Najaf, there are known to be checkpoints where people are randomly checked by Army and Security forces (often in a very rough manner) with some allegedly being arrested and detained without charge. Other reports and testimony from both the Government-controlled north and the south of the country indicate that threats are issued and arbitrary arrest, detention and confiscation of property are commonly practiced at checkpoints. Indeed, the Special Rapporteur is aware of incidents of such checkpoint-harassment of United Nations personnel from humanitarian agencies resulting in interruptions in their vital humanitarian work. Such harrassment evidently serves to deter free movement within the country and, where not warranted by reasonable national security concerns, appears in contravention of Article 12 of the International Covenant on Civil and Political Rights.

59. The freedom to choose one's place of residence has also been restricted by several means in Iraq. In the areas of Mosul and Kirkuk, official Government of Iraq documents show that a policy of "Arabization" was being conducted in the 1980s whereupon Arabs were granted privileges as enticements to move to the areas while non-Arabs were restricted in the options for conveyance of real estate, change of residence, etc. Recent reports and testimonies from persons from Kirkuk further indicate that forced internal deportations are taking place at the present time.

60. Oral and written testimonies indicate that the Government has been responsible for the forced displacement of many Iraqi citizens. Among the families who were displaced after the March 1991 uprisings are reportedly many Kurdish and Shiah families suspected of anti-Government sympathies; hundreds of thousands remain displaced in the northern Kurdish territory either unable, or fearing, to return to their homes. The Special Rapporteur has also reported on the forced displacement of persons from the southern marshes owing to a repressive Government programme in that region (A/48/600, paras. 31-32).

61. Expulsion from the country is also well-known to have occurred. During the deportation wave in the early 1980s, hundreds of thousands of citizens of so-called "Persian origin" were forced to leave Iraq and have not been allowed to return. Reports on sporadic

expulsions of mainly Shiah families continued to be received by the Special Rapporteur during the past year.

7. The right to nationality

62. In 1924, when what is now Iraq was still a British mandate under the League of Nations, a law was promulgated which distinguished between Iraqis of Ottoman origin and those of other origins, particularly Persian. Citizens were required to declare their origins, and many are said to have claimed Persian roots in order to avoid the compulsory Ottoman military service. This distinction has been maintained through successive governments and has come, in recent times, to identify under Iraqi law those of Ottoman descent as "true" Iraqis of "category A" and the remaining diverse ethnic and cultural groups which exist as "Iraqis without category".

63. Under Baathist rule, the distinction has become even sharper. Revolution Command Council Decree No. 661 of 1980 established that non-Arab Iraqis were not entitled to "Iraqi Nationality" if they were not loyal to the country and the "supreme goals of the Revolution". It placed a duty on the Ministry of the Interior to expel anyone who had their nationality removed on this basis. In practice, this meant that those of "Persian origin" (primarily Shiah) were presumed disloyal in the run-up to the Iran-Iraq war and 250,000 were reportedly expelled in 1980, having had all their movable and immovable property confiscated without compensation. Many had lived in Iraq for generations. Together with some earlier and subsequent waves of expulsion, reports indicate that as many as 1 million persons have been expelled from Iraq with over 500,000 believed to be living in the Islamic Republic of Iran.

64. While Decree No. 661 of 1980 was apparently aimed at reducing the number of disloyal and potentially treasonous persons in Iraq who were liable to other loyalities in view of the conflict with Iran, it is alleged that the Decree was also part of an anti-Shiah/pro-Sunni programme whereby many prominent Shiah Muslims were stripped not only of their nationality but also their positions and wealth often to the benefit of Sunni Muslims who took their places; the Government of Iraq was also known to have been bringing in Sunni Muslims from other States to assist with the labour shortage especially as the conflict escalated. For its part, the Iraqi Government claims that the deportees were simply "foreigners", but the law called for those who had been stripped of their status as Iraqi Nationals to be expelled; clearly, a person who was not an Iraqi national could not have had his or her nationality removed by Iraqi authorities. Irrespective of the obvious provisions of the law, evidence of the possession of Iraqi nationality of those expelled is overwhelming in view of the official papers or photocopies which some of those expelled had managed to retain and, more conclusively, the large number of official Iraqi Government documents which report upon the implementation of decisions to strip various citizens of their Iraqi nationality (see, e.g., Document No. 8 of Annex I). In fact, so extensive was the programme of expulsions that some "category A" Iraqis were apparently mistakenly expelled in the process where their names and/or initials appeared similar to Shiah names or initials. In its apparent rush to expel people, the Government did not thoroughly investigate their backgrounds in order to ensure that they fitted the established criteria; as in so many other important matters, there was evidently no judicial supervision of the process. Of more significance, however, may

have been the fact that the property and valuables of deportees was confiscated and put to "government use", thus leaving unchecked the interest on the part of executing agents to expel some persons for economic or other reasons.

65. As Document No. 9 of Annex I illustrates by virtue of its date of 24 August 1989, the Government's policy of deporting people clearly continued through to the end of the 1980s. Indeed, according to information received by the Special Rapporteur, and as referred to in paragraph 136 below, there has been a recent expulsion of Faili (Shiah) Kurds. For most of the persons concerned, their expulsion from Iraq with the protection of no other nationality or after having had their Iraqi citizenship effectively stripped renders them Stateless and places them at the mercy of other Governments' humanitarian response; the expulsion of large numbers of persons may also be viewed as a cause of friction if not instability in the region.

8. The right to property

66. Violations of the right to property, as articulated in Article 17 of the Universal Declaration of Human Rights or in relation to Article 26 of the International Covenant on Civil or Political Rights, have been addressed by the Special Rapporteur in his previous reports (A/46/647, paras. 48, 50-51, 55, 89, and 91-94; and E/CN.4/1992/31, paras. 87-93). The majority of reports received concerning the arbitrary deprivation of property refer to cases of confiscation or destruction of movable and immovable property, for which only in a very few cases were the victims said to have been given some form of compensation. Often, the elements of repression of perceived oppositional groups or retaliation for attributed hostile attitudes towards the Government play a role in such cases. Besides reports on the confiscation and destruction of property, reports have also been received on the application of discriminatory measures in the purchase or sale of real estate in certain regions. In these cases, the dominant factor seems to be the alleged Government policy to populate certain areas of strategic or economic importance with communities loyal to its ideology and policies.

67. Several groups have in the past been affected by violations of property rights. Among the victims were individuals, families and even entire communities and whole villages - considered guilty by association and consequently subjected to a policy of extended punishment. Confiscation or demolition of property has been systematicly applied as a sanction against alleged criminals. In many cases the movable and immovable property of their families was confiscated or destroyed as well. During the deportation wave in the early 1980s, a large part of the Shiah community, said to be of "Persian origin", was arbitrarily deprived of its property. At the end of the so-called Anfal campaign in 1988, over 4,000 villages in the predominantly Kurdish north of Iraq were destroyed depriving the inhabitants of essentially all their possessions without affording them any compensation. During and after the uprisings in early 1991, religious and cultural property of the Shiah community in southern Iraq was destroyed or subsequently confiscated by the Government.

68. Recently, reports have been received on the confiscation of property belonging to members of the Kurdish and Turkoman communities in Government-controlled areas. Several first-hand testimonies have been received on a deportation campaign in and around

Kirkuk where Kurdish and Turkoman families have reportedly been summoned to leave the city. The majority was said to have been deported to the Kurdish administered northern part of the country and was not allowed to bring any property, except for a few hundred Iraqi Dinars. Other reports, supported by first-hand testimonies, refer to the forced deportation of several Faili (Shiah) Kurds from central Iraq to Iran in the summer of 1993; it has been alleged that members of this group were also arbitrarily deprived of their property.

69. It is reported that, in cases of confiscation, property and valuables were often put to the personal use of Government officials. In many cases, local administrators and those directly involved in the confiscations appear to have been given "their" share. In this regard, the Special Rapporteur refers to the orders issued by Ali Hassan Al-Majid on 20 June 1987, prior to the Anfal campaign in 1988, deciding that "everything seized by the advisers and troops of the National Defence Brigades shall be retained by them, with the exception of heavy, mounted and medium weapons" (see Document No. 10 of Annex I at para. (vii)). More explicitly, Revolution Command Council Decision No. 680 of 23 October 1989 stipulates that 40 per cent of revenues arising from the sale of confiscated properties are to be distributed "among the distinguished" staff of the General Security Directorate for having uncovered schemes which led to the confiscations (see Document No. 11 of Annex I).

70. That the practice of destruction and confiscation of property has constituted a deliberate Government policy may appear from the numerous cases reported since 1980 through to the present day. These reports have been corroborated by a large amount of physical and documentary evidence. In terms of destruction, the Special Rapporteur refers to the mass of official Government documents which carry explicit instructions and reports on destruction of thousands of individual dwellings and whole villages (see, e.g., E/CN.4/1993/45, para. 97(d)). Moreover, the Special Rapporteur observes that the United Nations Humanitarian Programme in Iraq is responding, inter alia, to the need for shelter created by the hundreds of thousands of people who had their homes destroyed in previous years as a result of so-called "village amalgamization" programmes in the northern Kurdish territory. The Special Rapporteur has reported on allegations of a similar programme currently being carried out in the southern marsh area and resulting in the destruction of vast amounts of private property (movable and immovable). In both northern and southern Iraq, reliable reports, supported by documentary evidence, indicate that there has been a large amount of destruction of livestock and other personal property. Illustrative of the policy of confiscations is Revolution Command Council Decision No. 472, dated 23 April 1985, which orders that any civil servant who fails to sell confiscated property within the specified period be punished by imprisonment and confiscation of his own movable and immovable property (see E/CN.4/1993/45, Document No. 4 of Annex I).

71. With regard to the application of discriminatory measures in the transfer of property rights, the Special Rapporteur refers to his previous reports where he addressed the issue in relation to the Turkoman community in and around Mosul and Kirkuk (A/46/647, paras. 48, 55 and 89, and E/CN.4/1993/31, paras. 116-117). Although the Government has argued that ownership of real estate was never restricted on the basis of ethnic affiliation, the Special Rapporteur notes that he has found several official Iraqi documents which contradict this argument; for example, while "Iraqi inhabitants of the Autonomous Region" (i.e. almost exclusively non-Arabs) are restricted by Revolution Command Council Decision No. 529 of

24 August 1989 from owning property in the Governorates of Nineveh, Tamim and Diyala in addition to their residences in the Autonomous Region, Arab Iraqis relocating to Tamim Governorate enjoy "the prescribed privileges" of a grant of land and money (see Document No. 12 of Annex I). Interestingly, in its February 1994 report titled "Iraq and the Rule of Law", the International Commission of Jurists has also noted that Act No. 50 of 28 January 1989 prohibits courts from hearing any actions concerning the transfer of title to real estate in the city of Mosul and orders the closure of any files on such actions which have yet to be finally judged by the competent court. Another discriminatory measure interfering with the freedom to enjoy or dispose of property is pursuant to Revolution Command Council Decree No. 1610 of 23 December 1982 which prohibits women married to non-Iraqis from transferring ownership of their movable and immovable property to their non-Iraqi husbands.

9. Access to food and health care

72. In each of his previous reports the Special Rapporteur has addressed issues arising from the obligation of the Government of Iraq to ensure fair and equal access to adequate food, shelter and other necessities which provide the basis for minimum levels of health (E/CN.4/1992/31, paras. 81-83, 138, 143(w), 145(o) and (p), and 158 at points 4 and 5; A/46/647, paras. 52-54, 55, and 95-98; A/47/367 para. 14; A/47/367/Add. 1, in considerable detail, at paras. 6-14, 56(a), (b) and (c), and 58(a), (b) and (c); and A/48/600, also in detail, at paras. 33-42, 44-46, 58-59 and 62-88). Since his last report to the General Assembly, the Special Rapporteur has received a continuous flow of information concerning the deteriorating food and health situation in the country from a number of both non-governmental and intergovernmental organizations. The Special Rapporteur has especially taken note of the contents of the Cooperation Programme of the United Nations Inter-Agency Humanitarian Programme in Iraq (1 April 1993 - 31 March 1994). In addition, the Government of Iraq has, through its Permanent Mission to the United Nations Office at Geneva, regularly provided the Special Rapporteur with materials describing the deteriorating situation in the country. These reports give an alarming picture of the humanitarian situation in Iraq: the Special Rapporteur fully appreciates that the people of Iraq, particularly the most vulnerable, are bearing heavy and painful consequences as mortality and morbidity rates rise and access to essential commodoties extenuates an already precarious situation. However, as the Special Rapporteur has commented many times before, the disturbing reports and statistics also clearly illustrate the unwillingness of the Government of Iraq to attend to its obligations with regard to the economic rights of the population.

73. The sanctions imposed by the United Nations on Iraq pursuant to Security Council resolution 661 of 6 August 1990, as a response to the aggression committed by the Government of Iraq against Kuwait, have undoubtedly had an adverse impact on the general welfare of the Iraqi population despite the fact that they expressly provide for the exemption of imports of foodstuffs and medicaments for humanitarian purposes (para. 3 (c) of resolution 661). However, it is equally clear that the Government of Iraq must be held responsible for the current suffering since the Government alone can take the steps needed to comply with all obligations required for the lifting of the sanctions. Moreover, the Government of Iraq has the power to facilitate the distribution of humanitarian supplies simply by cooperating under the terms of Security Council resolution 688 (1991) and by taking advantage of Security Council resolutions 706 (1991) and 712 (1991) offering a United Nations supervised

"food for oil" sale to benefit the population. Furthermore, there can be no doubt that only the Government of Iraq can be held responsible for the unequal distribution of these scarce resources within the country.

74. The obvious imbalance between military expenditure and resources allocated to the fields of health care and education clearly illustrates the priorities of the Government of Iraq. According to the United Nations Development Programme's Human Development Report of 1993, the Government of Iraq spent 511 per cent more on military expenditures in 1990 than it did on social spending, i.e. the highest ratio of military/social spending in the world. Similarly, the ratio between persons engaged in the military sector compared to the teaching sector was 630 per cent in 1987, i.e. also the highest in the world. It should further be noted that, according to the UNDP Human Development Report of 1992, Iraqi public spending on health decreased from 1.0 per cent of Gross National Product in 1960 to 0.8 per cent in 1987 while, at the same time, there was a remarkable increase in military expenditure from 8.7 per cent of Gross National Product in 1960 to 23 per cent in 1989. Simply put, the Government of Iraq, particularly under the nominally "socialist" programme of the ruling elite, prefers guns over food and health care. Under the present circumstances, the Special Rapporteur observes that the preference has become all the more stark.

75. The discriminatory policies implemented by the Government of Iraq in total disregard for humanitarian concerns or basic rights are clearly illustrated by the severe internal embargoes it has imposed on groups of its own population; notably the Shiah in the southern marsh areas and the Kurds in the north. The Special Rapporteur has already addressed the situation in these areas at length in his last report to the General Assembly as noted above. However, due to the seriousness of the situation, the Special Rapporteur finds it necessary to briefly recapitulate these findings.

76. In the southern part of the country, the Government has imposed a number of prohibitions and restrictions which effectively deny the marsh dwellers access to food and health care. The general food and health situation has been further aggravated by the Government's draining of the marshes, which constitute the foundation of the local economy, support the traditional way of life and used to provide the main sources of protein (from fish and water buffalo) for the local population.

77. In the northern part of the country, the Government has withdrawn all of its administration, including social welfare, health care and education. Its internal embargo allows virtually no exception for humanitarian needs such as medicaments, food or heating oils, save for what has been agreed upon with the United Nations Humanitarian Programme and some tiny rations. As a result, there has been a considerable rise in the number of deaths due to preventable and curable diseases, especially among the children and elderly. The food situation has further deteriorated because of the Government's continuing attacks, often in the form of artillery shelling against agricultural settlements and farmlands, which have interfered with efforts to plant crops, destroyed crops which had been planted and otherwise kept farmers from their fields. The rising number of security incidents during recent months have also affected stability in the region and made it extremely difficult for the relief agencies to carry out their tasks. Consequently, several international non-governmental organizations have left the area.

78. Some privileged social groups, e.g. the military and Baath Party elite, are also known to receive preferential treatment in the distribution of food, health care and other resources. This form of discrimination is all the more reprehensible and impermissible given the ever deteriorating situation of those who are most vulnerable. It should also be noted that the right to education, health care and other basic services is not absolute in Iraq, since the enjoyment of these rights has been made conditional on the fulfilment of a number of obligations by the citizen: the citizen is expected to contribute to the development of the country through work and military service, which are seen as sacred duties. In return, the Government undertakes to provide citizens with health care, education, and social welfare in general. Thus, in a country where the overwhelming majority of such services are run by the State authorities, persons who do not perform according to the Government's expectations are left to their own precarious means.

79. In this context, the Special Rapporteur wishes to draw particular attention to the provisions of Article 2 (1) of the International Covenant on Economic, Social and Cultural Rights according to which the Government is obliged to "take steps ... to the maximum of its available resources" with a view to the full realization of the rights recognized in the Covenant. In paragraph 2 of the same Article, the States Parties also "undertake to guarantee that the rights enunciated in the present Covenant will be execised without discrimination of any kind as to race, colour, sex, language, religion". Under Articles 11 and 12 of the same Covenant, the Government is further obliged to recognize the right of everyone to an adequate standard of living and the highest attainable standard of physical and mental health.

10. The rights pertaining to democratic governance

80. The Special Rapporteur has not addressed the rights pertaining to democratic governance in a direct manner in any of his previous reports. However, his continuing examination of the situation of human rights in Iraq reveals more each day the fundamental importance of these rights. While the rights pertaining to democratic governance include important freedoms of speech, information, association, assembly, etc., the Special Rapporteur refers specifically here to the provisions of Article 21 of the Universal Declaration of Human Rights and Article 25 of the International Covenant on Civil and Political Rights which require, respectively and inter alia, that the "will of the people shall be the basis of the authority of government" or, otherwise phrased, that "the free expression of the will of the electors" shall be guaranteed; the instruments also require the free participation of citizens in the government of the country.

81. Reports and information received by the Special Rapporteur allege that the will of the people is in no sense the basis of government in Iraq. Setting aside the obvious and essential connections between the provisions of Article 21 of the Universal Declaration of Human Rights and Article 25 of the International Covenant on Civil and Political Rights on the one hand and other human rights such as the freedoms of opinion, expression, association, movement, the right to privacy, etc., on the other hand, it has been specifically alleged that the political organization of the State of Iraq is not in accord with those requirements of international human rights law binding upon Iraq. An examination of the political structure of Iraq pursuant to the 1970 Provisional Constitution and other relevant legislation is informative in this regard.

82. According to the International Commission of Jurist's study entitled "Iraq and the Rule of Law", the free participation of citizens in the government of the country is extremely limited. This is because, in the first place, access to the "State's supreme body" (as the Revolution Command Council is defined in the 1970 Provisional Constitution) is limited only to election by the Council itself. The main institution of government to which citizens theoretically have access is, therefore, the National Assembly which was only established by the Revolution Command Council pursuant to Act No. 55 of 1980.

83. Participation in the National Assembly is also extremely limited by virtue of several legal and political constraints. In the first place, the National Assembly Act excludes naturalized Iraqi citizens or Iraqis born of non-Arab mothers from sitting in the National Assembly: Article 14 (h) of the Act requires that representatives must be Iraqis by birth (born of a father who was Iraqi by birth) and born of an Arab mother. Article 14 (i) of the National Assembly Act also requires that Deputies must believe in the 1968 revolution and have participated in the war effort against Iran in some appreciable manner. Other Acts restricting participation in the National Assembly included Act No. 60 of 12 January 1982 which required membership in the Arab Baath Socialist Party (over which Saddam Hussein presides with the power to terminate membership) and, until Act No. 60 of 4 February 1989, Deputies were required to believe in the leading role of the Baath Party.

84. While some reforms appear to have been put in place, further examination of the system reveals the existence of continuing constraints. For example, submissions of applications for candidacy for election to the National Assembly are scrutinized by the Ministry of Local Government which comments upon applications in passing them to the Higher Elections Commission which is empowered to deny candidacy should it find an applicant insufficiently dedicated to the goals of the Revolution or having failed to demonstrate a sufficient commitment in deeds. The Higher Elections Commission is constituted by order of the Revolution Command Council and is presided over by a Member of the Revolution Command Council sitting together with the Minister of Local Government, the Minister of Justice and a representative of the Baath Party. Appeals against denial of candidacy may be made only to the Revolution Command Council. Whether or not members of the Baath Party, elected Deputies are nevertheless required to swear their support for the principles of the Party and the regime.

85. News of the promulgation of the Political Parties Act of 1 September 1991 was reported as having held hopes of progress for improvements in the enjoyment of political rights in Iraq. However, examination of the Act serves to disappoint the hopes for progress insofar as many provisions enable the Government to control the formation of parties, interfere in their internal affairs and closely monitor their activities. Specifically, the Act requires that parties: must seek to promote Arab unity (Article 3); must have their headquarters in Baghdad (Article 10); must not have contacts with political parties or organizations abroad except through the "Arab and International Relations Committee" of the National Assembly (Article 17); must not receive funding from abroad except with the permission of the Council of Ministers (Article 18); and must maintain detailed accounts of their membership and finances which are to be submitted to the Minister of the Interior every year (Articles 21 and 22). In addition, Article 19 of the Act reserves for the Baath Party the right to engage in political activities among the armed forces and security agencies, while

Article 24 reserves for the President the right to determine the size of financial grants to political parties. Perhaps most importantly, Article 28 of the Act provides for a wide array of vague and flexible grounds which may be invoked by the Council of Ministers to dissolve a political party.

86. The fundamental role of the Arab Baath Socialist Party in Iraqi Government is alleged to be a final impediment to the enjoyment of genuine political freedom in Iraq. An examination of the political institutions and institutions of civil society in Iraq shows how Baathism permeates the system. The hegemony of the Party which effectively negates real choice in Iraq and ensures a specific ideology has been encased in the law by virtue of specific legislation including the Leading Party Act No. 142 of 1974, Revolution Command Council Decision No. 434 of 3 April 1978 (which requires the Government to apply Baath Party decisions), and Revolution Command Council Act No. 107 of 1974 which prescribes the death penalty for anyone "infiltrating" the Party. It is also to be noted that several political parties have been explicitly outlawed in Iraq including, e.g., the Arab Socialist Party, the Communist Party, the Islamic Da'wa Party and the Patriotic Union of Kurdistan.

11. The situation of women and children

87. The Special Rapporteur addressed the situation of women and children in his first report to the Commission on Human Rights (E/CN.4/1992/31, paras. 84-86). Since then, he has continued to receive information, in the form of documents and written and oral testimonies, corroborating the allegations which he had previously described. On the basis of these reports, it would appear that neither women nor children have escaped the oppression to which the population in general has been subjected. The Special Rapporteur notes in this regard that the oppression of women and children in many cases seems to have been politically motivated (rather than gender-based in the case of women, for example). In this relation, the Special Rapporteur refers to several decrees restricting the rights of women for apparent political reasons. One of the most striking examples is Decree No. 474, issued by the Revolution Command Council on 15 April 1981, which encouraged an Iraqi husband married to a woman of "Iranian nationality" to divorce her or send her out of the country in return for financial compensation. This Decree was issued at the beginning of the Iran-Iraq war and its issuance coincided with a campaign directed against persons of "Persian origin" during which thousands of (often Shiah) men were arbitrarily arrested (many of whom have subsequently disappeared) and their families deported to Iran. Whereas the majority of the decrees interfering with the position of women and family life appear clearly to have been issued with political motives, the Special Rapporteur is aware of decisions implying gender-based discrimination, and draws attention to Decree No. 111 of 28 February 1990 as referred to in paragraph 25 above.

88. In several cases, women and children have been subjected to arbitrary arrest, torture and to extrajudicial, summary or arbitrary executions for their alleged individual activities. Several documents refer to the arrest of young children. For example, Document No. 13 of Annex I, completed on a pre-printed form of which several examples have been found, records the arrest of a 9 year old girl for having "joined the ranks of the subversives". On the subject of executions, the Special Rapporteur is aware of several cases where juveniles charged with "criminal" offences were sentenced to death and executed despite the fact that

the death penalty for juveniles (defined by Iraqi law as children between 7 and 18 years of age) is prohibited according to Article 66 of the Iraqi Penal Code. There are also reports of the death under torture of children. One young Kurdish woman testified that she had been arrested and tortured several times for alleged political activities. She was arrested twice when she was still a child at secondary school, suspected of having distributed political circulars. During her first period of detention, she was severely beaten in order to compel her to confess. At the age of 21, she was arrested for the third time. On that occasion she was frequently threatened with rape; she claims to have been forced to watch a video showing four security men raping a Kurdish woman. During her detention, she was taken to a room where she found a naked woman lying on the floor with traces of blood on her body and said to have been raped; the witness was told that the same would happen to her should she refuse to confess. The other woman later reportedly died under torture.

89. In many other instances, women and children have been considered guilty by association and suffered violations because of the suspected political activities of family members or on the basis of their adherence to a certain religion or membership of a particular ethnic group associated with political opposition. The Special Rapporteur refers in this regard to the very large number of official Iraqi documents concerning the execution of family members of "criminals" (see, for example, E/CN.4/1992/31, Document No. 1 of Annex I). Prior to the Anfal campaign, families of "subversives" were en masse deported to the so-called "prohibited zones" from which, a few months later, thousands of (mainly Kurdish) civilians, including women, children and elderly, disappeared (see, for example, E/CN.4/1993/45, Document No. 10 of Annex I). In several cases, references have been made to retaliatory measures which single out the mothers of "subversives" for punishment. In other cases, sisters, wives and daughters have been subjected to retaliation. Revolution Command Council Decree No. 395 of 9 October 1990, for example, orders the confiscation of the movable and immovable property of the sisters and wives of 127 men; in the case of 45 other men mentioned in the same Decree, it is ordered that also the property of their daughters must be confiscated. Indeed, an excerpt from a speech delivered by Saddam Hussein on 23 November 1992 before a Baath Party meeting in Baghdad, and reproduced in the Iraqi newspaper Al-Jumhuriya of 24 November 1992, reveals a disturbing attribution of responsibility to women for the alleged crimes of their husbands. In reciting a parabel about a thief, Saddam Hussein states the following:

> "His wife should have told him that, if he did not return the stolen property to its owners, she would return to her parents' house the next day. When it is too late, she says 'But Sir, I have seven children'. Why did she not think of those children when she encouraged her husband to steal in order to buy her silk, shoes, dresses and a fast car? Did she not consider the possibility that he would one day be caught and executed? She should have thought of that at the time. Now, she remembers her seven children and says 'What can I do for them?' This is a valid question. However, 70 per cent of lapses into crime on the part of husbands are attributable to their wives. I am addressing these words to the Women's Federation: Many lapses into crime on the part of men are caused by women."

The Special Rapporteur has also received testimonies as recently as mid-December 1993 indicating that forced deportations from the area of Kirkuk are affecting hundreds of families accused of having sons abroad or in the northern Kurdish territory; the overwhelming majority is said to be deported to the Kurdish administered area in northern Iraq. In the southern marsh area, women and children continue to suffer from indiscriminate attacks by Government forces as part of an ostensible counter-insurgency campaign.

90. In addition to the violations to which women and children have been personally subjected, they suffer also from the complex situations created by the disappearance of male family members. Special attention in this regard should be paid to the wives of the thousands of disappeared in northern Iraq, among whom most are Kurds, who were left behind without support and became entirely dependent upon their communities. Testimonies from several of these women, received at the end of December 1993, indicate that they continue to suffer the mental torture inflicted by these "disappearances". Living with the uncertainty whether their husbands are dead or still alive, they have in a way been paralysed; they are unable to mourn and start a new life, nor may they inherit the property of their missing spouses or fathers. Their economic situation has also deteriorated as a result of the strict internal embargo which the Government of Iraq has imposed on the northern Kurdish region, forcing many women to sell their last property in order to survive. Surviving widows and mothers in the northern Kurdish territory who are responsible for several young children carry among the heaviest of burdens — as do their children.

B. Violations affecting ethnic and religious communities

1. In general

91. In each of his previous reports, the Special Rapporteur has referred to violations affecting specific ethnic and religious communities of Iraqi society. In particular, the plight of the Assyrians, Kurds, Marsh Arabs, Turkomans and Shiah communities have been addressed. Although their oppression seems to have been motivated in the first place by political considerations, i.e. directed against any opposition to the Government, ethnic and religious elements have clearly played a significant role in Government policies relating to these communities; the Special Rapporteur notes in this regard that he is in possession of several official Iraqi documents demonstrating the explicit interest of the Security services in religious, national and cultural groups. Whatever the underlying motivation for the Government policies in question, it is obvious that there have been discernible effects of a repressive nature affecting entire ethnic and religious communities. In many cases, members of these communities have suffered violations solely on the assumption that the whole group was responsible for some oppositional actions (whether or not criminal) attributed to some members of the group. In this relation, the Special Rapporteur has previously expounded upon campaigns against the Kurds, the Marsh Arabs and the Shiah.

92. In connection with the persecution of the above mentioned ethnic and religious communities, the Special Rapporteur also notes the element of geographical location. Many violations appear to have been suffered by groups simply because they happened to be living in areas designated for a military campaign meant to exterminate political opposition in the

region. For example, many Assyrians, Turkomans and also Yazidis (a Kurdish group adhering to a unique religion which constitutes a combination of pre-Islamic rituals, Zoroastrianism, Judaism, Christianity and Islam) who live in the northern, predominantly Kurdish, region of the country suffered destruction of their villages and monuments, arbitrary arrest and detention, torture, execution and disappearance during the notorious Anfal campaign in 1988. In many cases they were accused of collaboration with the Kurdish opposition thought to be in the area. Following the uprisings in northern and southern Iraq in March 1991, members of these communities seem to have come under renewed suspicion.

2. Violations affecting the Assyrians

93. The Special Rapporteur has previously addressed violations affecting the Assyrian community in his first report to the Commission on Human Rights (E/CN.4/1992/31, paras. 109-113). As detailed then, allegations of violations suffered by members of the Assyrian community include restrictions on their linguistic, cultural and proprietary rights. Information continues to be received further detailing the nature and extent of the alleged violations.

94. Perhaps the most fundamental issue concerns recognition of the identity of the group, i.e. the right of members of the Assyrian community to be recognized before the law as Assyrians, together with the rights of the group per se. According to the 1970 Provisional Constitution, Iraq is composed principally of Arabs and Kurds with minorities entitled to only those rights which would not conflict with Iraqi unity (Article 5 (a)); Revolution Command Council Decree No. 251 of 16 April 1972 granted cultural rights to Iraqi citizens who spoke the Syriac language and clarified that the Iraqi minorities referred to in the Constitution included Assyrians, Chaldeans and other Syriacs. However, neither the 1977 nor 1987 national censuses provided for any identity other than "Arab" or "Kurd", requiring specification of one or the other; Assyrians were said to be compelled by census agents to identify themselves as "Arabs" — as almost all Assyrians reportedly did. Keeping in mind that Article 4 of the Provisional Constitution proclaims that "Islam is the religion of the State" (and in light of the fact that "the State" is ever-present and all powerful in Iraq), the existence of the Christian Assyrian identity certainly cannot be considered sufficiently accommodated under Iraqi law.

95. While Decree No. 251 provided the Assyrian community with a number of cultural rights, and was supplemented by Revolution Command Council Decree No. 440 of 25 June 1972 which established the Academy of the Syriac Language, it is said that these Decrees were barely implemented at the time of their promulgation and were followed, after 1974, with a programme of discrimination, repression and strict Government control. It has been alleged that since 1974 most educational and cultural institutions of the Christian Assyrian community have either been closed or subjected to direct or indirect Government controls. For example, public instruction in the Syriac language is said never to have been implemented pursuant to Decree No. 251 while the clergy have been placed on Government pay-rolls and required to pledge allegience to President Saddam Hussein. In 1981, Christian Assyrians were said to be subjected to a Government policy which required all schools to provide instruction in the Quran as part of a programme of developing national identity and

allegience. In the course of the "Anfal campaign" described below, many Assyrian churches were destroyed together with entire villages, despite the fact that almost none of these fell in areas near the war-zone with Iran.

96. In so far as persecution on political grounds is concerned, the Special Rapporteur notes that among the Assyrian community leading figures have become victims of arbitrary arrest, detention, torture and execution. To the present day, several Assyrians are believed to be kept in detention for alleged political opposition.

97. In the last year, the Special Rapporteur has continued to receive allegations of violations of human rights directed against the Assyrian minority. At the end of August 1993, 900 Iraqi teachers, most of whom were said to be Assyrians, were reported to have been "pensioned off" in Nineva Governorate while 100 other Assyrian teachers were said to have been dismissed in Kirkuk along with an unspecified number in Baghdad. At the end of October 1993, it was reported that an unspecified number of Assyrian students were expelled from universities while Assyrian teachers were transferred to other Government posts. Since it has also been reported that many Assyrians are not considered "citizens" under Iraqi law, the effect of the reported dismissals would be severe insofar as the persons concerned would be excluded from a variety of social security benefits.

3. Violations affecting the Kurds

a. In general

98. The Special Rapporteur has addressed the subject of violations affecting the Kurds in his reports to the Commission on Human Rights (E/CN.4/1992/31, paras. 96-108 and E/CN.4/1993/45, paras. 79-113) and the General Assembly (A/46/657, para. 47; A/47/367/Add.1, paras. 24-31; and A/48/600, paras. 69-78). The Special Rapporteur continues to pay special attention to this community which has suffered especially badly over the years and remains in a vulnerable position. In his most recent interim report to the General Assembly, the Special Rapporteur chose to address the situation of the economic rights of the population. The special issue of the territorial status of the region in international law has also been addressed by the Special Rapporteur in detail in his last report to the Commission (E/CN.4/1993/45, paras. 33 and 83) and above at paragraphs 16 to 18.

99. Insofar as the mandate of the Special Rapporteur allows him to address the human rights of the Kurds, he notes that their situation remains largely the same as that described in his most recent interim report to the General Assembly. The most important violation committed by the Government of Iraq, aside from the continuing effects of the disappearance of thousands of Kurds, remains the Government's internal blockade on the import of medicines, fuel, foodstuffs and almost any other commodities to the Kurdish region. Consequently, the people of this region continue to face a "double embargo" consisting of the Government of Iraq's internal blockade and the international sanctions imposed on the country as a whole. The Special Rapporteur offers herebelow a brief summary of these allegations prior to addressing the specific problem of landmines and the continuing significance of the Anfal campaign of which the Special Rapporteur has learned much more over the past year.

100. Since the imposition of the internal blockade in October 1991, the people of the northern region have been cut off from many services and resources essential for their survival. This blockade has included the withdrawal of vital government services such as health care, education and sanitation. This had devastating consequences in a region where hundreds of thousands of displaced people survive in makeshift settlements. Whereas it is reported that the population in other parts of Iraq receive food rations covering some 50 per cent of their basic needs, only a mere 7 to 10 per cent of normal rations reach the population in the northern Governorates from which the central administration has withdrawn. The distribution of electricity to the region of Dohuk has also been cut allegedly by the Government of Iraq; the Special Rapporteur notes that, whoever may have been responsible for the cut, the Government has not restored the flow since it was cut in September 1993. This has had serious consequences for the population. In addition, the lack of medical supplies combined with malnutrition have reportedly resulted in increasing mortality rates, especially among the most vulnerable of this largely vulnerable population.

101. In the course of the last year, the situation of the Kurdish population has caused them to become more and more dependent upon international aid and assistance. The widespread problem of landmines which litter Kurdish fields together with the Government's reported periodic shelling of farmland and control of persons going between central and northern Iraq stand in the way of economic reconstruction and development in the region — undermining self-reliance, reinforcing dependency upon foreign aide and leaving the population insecure in their vulnerabilities. Testimony received by the Special Rapporteur in December 1993 alleges some Government shelling of farmers and agricultural fields at the end of November 1993. Testimony also alleges the arrest by forces of the Army of eight farmers from Minare on or about 20 November 1993; the farmers were said to have been released some ten days later, but were instructed not to try to cultivate their fields under threat of being shelled. The testimony further alleges that thousands of donams (approximately one square kilometre) of the most fertile land remain uncultivated for these reasons — a particularly unhelpful result when so many Iraqis lack sufficient nutrition or food security.

102. On the subjects of both physical security and food and health security, numerous security incidents involving preconceived violent attacks against persons and property, including armed attacks and bombings directed against United Nations staff and convoys in the area, have seriously disturbed the implementation of the humanitarian programme. Some of these attacks have allegedly been carried out by persons acting under the instructions of the Iraqi authorities. One of the most alarming incidents took place in Suleimaniyah on 13 December 1993 when a powerful bomb exploded inside a centre run by the international non-governmental humanitarian organization Handicap International; some 20 persons were killed, others were injured and the building was destroyed. On the same day, another bomb attack in Suleimaniyah was directed against the office of the non-governmental organization CARE; two staff members were injured. As a result of the deteriorating security situation in the region, some non-governmental organizations have suspended their programmes and withdrawn their staff — leaving the local population to their fate. The insecurity of the population of the northern Kurdish region is also said to have been heightened in the last year by reports of an increasing Iraqi military build-up along the internal frontier.

103. Despite the rising insecurity and enduring economic crisis in the northern Kurdish

region, the Special Rapporteur is aware of the efforts of the local administration to improve the physical infrastructure (e.g. roads, public buildings, etc.) and social infrastructure (e.g. schools, cultural centres, social and economic support services, etc.). The Special Rapporteur also notes the improvements in the enjoyment of civil and political rights in the region. However, attention must equally be drawn to the consensus voiced recently at the 21 January 1994 consultations on the United Nations Inter-Agency Humanitarian Programme in Iraq where the participants from various governments, inter-governmental humanitarian agencies and non-governmental organizations agreed on the need to concentrate more on rehabilitation over a longer period of time.

b. The problem of landmines

104. The problem of landmines remains one of the largest impediments to reconstruction, rehabilitation and self-reliance in the northern Kurdish territory. In his previous reports to the Commission on Human Rights, the Special Rapporteur has addressed the problem of mines in the Kurdish area (E/CN.4/1992/31, para. 101, and E/CN.4/1993/45, paras. 107-113). Since the submission of his last report, the Special Rapporteur has continued to receive information and follow developments on this subject.

105. The Kurdish region in northern Iraq remains scattered with an estimated 4 to 5 million anti-personnel and anti-tank mines which were placed by the Iraqi Army both during the Iran-Iraq war and in connection with the campaigns against the Kurdish peshmerga resistance. The majority of these mines are still active and continue to claim several hundreds of victims per month among those Kurdish villagers who have returned to their homelands since the withdrawal of the Iraqi forces. In Suleimaniyah Governorate, which borders with Iran and was the scene of considerable military action during the Iran-Iraq war, the Suleimaniyah City Hospital alone reported some 1,652 cases of landmine injuries from March to September 1991. In the spring of 1992, the United Nations High Commissioner for Refugees (UNHCR) reported that the Governorate of Suleimaniyah counted an average of 600 mine casualties per month. While the numbers of victims have since been reduced (perhaps because of efforts to mark off areas known to have mines), landmines remain the largest single source of unnatural death and injury in the territory.

106. According to the information received, most of the injuries caused by landmines reportedly occur while people are collecting firewood, herding livestock or fetching water — tasks frequently given to children. Many of the local people have also tried to clear the usually unmarked or unfenced minefields themselves in order to be able to farm the lands. Since these civilians do not have the necessary resources, adequate training or protection to perform this dangerous task, many people have been injured or killed. The resultant numbers of widows, orphans or disabled clearly increase the size of the particularly vulnerable population and place additional pressures on already extremely limited humanitarian resources in the region.

107. In order to determine the extent of the problem, two non-governmental organizations, Middle East Watch and the Mines Advisory Group, fielded a mission to the region in 1992. A total of 15 minefields were surveyed; 8 in the Governorate of Arbil, 6 in Suleimaniyah and 1 in Dohuk. It appears that many of these mines were placed in a careless manner and

without mapping in areas used by the local people to grow crops or graze livestock. The mines placed in the area are of many different types, which makes the clearing of the minefields even more difficult and dangerous. UNHCR has reported that a great percentage of the mines are light-weight plastic mines which are not readily detectable by normal means. Apart from the demining and mine awareness projects administered by the Mines Advisory Group, no major demining operation has taken place so far. The Government of Iraq appears to have chosen to simply abandon the mines and has not been forthcoming with any information or cooperation that might facilitate the demining of the region. In April 1993, the United Nations Coordinator in Baghdad requested the Government of Iraq for an entry visa for a United Nations demining expert. The purpose of this visit would have been to discuss demining related problems with local authorities and representatives of the United Nations and non-governmental organizations and to prepare a plan of operations regarding mine awareness training. The response given in May 1993 by the Iraqi Ministry of Foreign Affairs to this request was negative, and the Special Rapporteur is not aware of any subsequent response or action on the part of the Government.

108. It is evident that landmines present a serious threat to the life and well-being of the Kurdish population who form a largely agricultural society. It is equally clear that many of these minefields were placed deliberately in non-combat zones in order to make large areas of the northern Kurdish territory uninhabitable. In this connection the Special Rapporteur draws attention to Protocol II of the United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Determined to be Excessively Injurious or to Have Indiscriminate Effects which was adopted by the General Assembly on 12 December 1980 and opened for signature on 10 April 1981: Protocol II relating to mines, booby-traps and other devices articulates the standards that mines should not be used indiscriminately, against the civilian population, or laid without record of their location. While the Special Rapporteur recognizes that Iraq is not a signatory to the said Convention, he equally observes that the specific standards articulated by the Convention derive from three customary principles of international humanitarian law: (a) that the right to adopt means of warfare is not unlimited; (b) that unnecessary suffering is prohibited; and (c) that non-combatants are to be protected. Insofar as landmines appear to have been placed by Iraqi troops in areas outside the war-zone without adequate protection for civilians, and inasmuch as it does not appear that the laying of the minefields was adequately recorded (with no minefield maps having been found among the millions of official Iraqi documents examined by Middle East Watch), the Government of Iraq may be in violation of customary international humanitarian law.

c. The Anfal campaign

109. In the context of the present situation of the Kurdish population of Iraq, the Special Rapporteur believes that the events of the Anfal campaign require further consideration because: (a) hundreds of thousands of persons remain personally affected by the continuing violations of disappearance, destruction of property, etc.; (b) there appear significant similarities between the events of the Anfal campaign against the Kurds and reports of present events in the southern marsh area of the country; and (c) the same Government remains in power directing policies having current effects and giving rise to considerable concern for policies which may affect the Kurdish population in the future. In addition, the

unprecedented volume and wealth of evidentiary material at the disposal of the Special Rapporteur, comprising some 18 metric tons of official Iraqi documents, testimonies, analytical reports, forensic and other scientific reports, etc., equally call out for study in the interest of establishing the facts and responsibilities of human rights violations allegedly committed against the Kurdish population. Moreover, since the events of the Anfal campaign left virtually no Iraqi Kurd untouched, the Special Rapporteur takes note of the argument made to him by Kurdish leaders that genuine national reconciliation will be difficult as long as the issues and effects of the Anfal campaign remain unresolved.

110. The allegations of genocidal practices constituted by the Anfal campaign were described by the Special Rapporteur in his previous reports to the Commission on Human Rights (E/CN.4/1992/31, paras. 97-103, and E/CN.4/1993/45, paras. 89-99). The continuing study of evidentiary materials now affords a closer examination of the campaign: in particular, the Special Rapporteur takes note of the work done by the international non-governmental organization Middle East Watch in having now examined approximately 40 per cent of the over 4 million official Iraqi documents taken from Government offices (principally Security offices) by Kurdish groups in northern Iraq subsequent to the March 1991 uprisings. The Special Rapporteur has described these materials in detail in his last report to the Commission (E/CN.4/1993/45, paras. 89-90).

111. While conflicts between the Kurdish population, or parts thereof, and the central authorities of Iraq have long historical antecedents, the Anfal campaign should be viewed in the specific context of events between 1985 and the present as elaborated below. However, while the general policy against the Kurdish groups appears to date from 1985, the specific operations forming the Anfal campaign may be more clearly delimited as having occurred between 23 February 1988 and 6 September 1988. According to the official Iraqi documents reviewed by the Special Rapporteur, and in agreement with the analysis conducted by Middle East Watch, the Special Rapporteur observes that the Anfal campaign appears to have been composed of eight distinct operations: Tables 1 to 3 of Annex II summarize, respectively, the essential features of each operation, the known uses of chemical weapons, and the main effects of the operations on the civilian population. The map appended to Annex II also exhibits the geographic location of the various operations. Read together with the Tables and map, the eight Anfal operations are described in the following paragraphs according to information obtained in the documents and corroborated by testimony and scientific studies of physical evidence.

112. The first operation of the Anfal campaign appears to have begun on 23 February 1988 with a series of chemical and conventional attacks by both air and ground forces against the Patriotic Union of Kurdistan (PUK) peshmerga strongholds in the Jafati valley in the Governorate of Suleimaniyeh. Particularly fierce attacks were directed against the villages of Sergalu, Bergalu and Yakhsamar where the main headquarters of the PUK were located. The largest chemical attack was launched on 16 March 1988 against the Kurdish town of Halabja killing between 3,200 to 5,000 of its residents. After almost eight years of war with Iran, these mass killings constituted part of the Government's clearly established practice of indiscriminate attacks against civilian targets. During the First Anfal operation, it appears that very few civilians were captured or deported by Government forces; most were able to flee to Iran. Based on an assessment of the operations and the declarations made throughout

the documents relating to this period, the main objective of the First Anfal was apparently to eliminate the PUK strongholds and destroy the civilian settlements in the Jafati valley. This aim was acheived on 19 March 1988 with the defeat of the last peshmerga base in the village of Bergalu; most of the remaining PUK peshmerga units fled across the border to Iran.

113. The second stage of the Anfal campaign appears to have begun on 22 March 1988 when Government forces launched chemical attacks against the village of Sayw Senan in the Qara Dagh subdistrict of the Governorate of Suleimaniyeh. Estimates of the number of civilians killed in this attack vary between 70 to 90. This offensive was followed over the next days by similar chemical attacks on the nearby villages of Dukan, Balakajar, Masoyi and Ja'faran. Following the characteristic pattern of the Anfal operations, several hundred young men from the villages in Qara Dagh reportedly disappeared after their arrest and detention in the Suleimaniyeh emergency forces base. The chemical attacks also resulted in a mass flight of civilians: the majority headed north and found temporary safety in the housing complexes near Suleimaniyeh, while those who went south and crossed into southern Germian, heading towards Kalar, were captured by advancing Government troops. A large number of these families subsequently disappeared, while others were taken to the camp of Dibs or transported to the prison of Nugrat Salman. From the perspective of military operations, the Second Anfal was accomplished very easily since a large part of the peshmerga units had fled to Iran after their defeat in Sergalu-Bergalu. The second Anfal operation seems to have come to an end around 1 April 1988.

114. The Third Anfal was concentrated on the Germian plain. On 7 April 1988, the Government forces launched a massive offensive involving assaults of infantry supported by artillery, armoured units and the air force. The troops appear to have advanced in a pincer-like movement converging from several different points around the Germian plain. Since only a few peshmerga units appear to have been present in this region, the Government forces record that they met virtually no resistance. In this phase of the campaign, Government forces seem to have employed mainly conventional means: chemical weapons appear to have been used only on a few targets, such as the small village of Tazashar where the peshmerga managed to put up some resistance. Fleeing villagers are recorded as having been channelled to specific collection points and were subsequently sent to prison camps in Dibs, Nugrat Salman and Topzawa. Consistent with all phases of the Anfal campaign, the captured adult men disappeared en masse. However, reports indicate that a large number of women and children also disappeared in the course of the Third Anfal, especially in certain specific areas such as the southern parts of the Daoudi and Jaff-Roghzayi regions: some estimates put the number of disappeared at around 10,000 in this limited area alone. According to several corroborating eye-witness testimonies reported by Middle East Watch, thousands of men, women, children and elderly were transported en masse from the above-noted camps to execution sites located at Hadar, Ramadi and Samawah in, respectively, northern, central and southern Iraq. By 20 April 1988, the last pockets of peshmerga resistance together with all civilian settlements are recorded as having been wiped out in the region of the Third Anfal.

115. The fourth stage of the Anfal campaign appears to have begun on 3 May 1988 with a heavy chemical attack by the Iraqi air force on the villages of Askar and Goktapa in the

valley of the Lesser Zab river. According to eye-witness accounts reported by Middle East Watch, hundreds of civilians were killed as a result of this offensive while many of the survivors were captured by the advancing Government forces; some fifty families from the village of Askar were reportedly arrested and sent to the complex of Suseh. As during the previous stage of the campaign, Government forces attacked the villages in the area of the Fourth Anfal from several different directions. Upon military occupation of the villages, the buildings were demolished and the villagers were said to have been rounded up and trucked away to camps such as those at Topzawa, Dibs and Nugrat Salman. The adult men, along with a large number of women, children and elderly, disappeared in this process. Specifically, as many as 1,600 people are reported to have disappeared from the villages of Bogird, Kanibi, Kleisa, Qizlou, Gomashin and Kani Hanjir alone. Many of them are believed to have been subsequently killed in mass executions. By 8 May 1988, all villages in the area had been razed to the ground and their residents captured, detained or disappeared.

116. The fifth, sixth and seventh stages of the Anfal campaign appear to have lasted from 15 May to 28 August 1988 and concentrated on the villages situated in the valleys of Shaqlawa and Rawanduz north of Dukan Lake. In this area, the remaining peshmerga units had gathered in an attempt to offer resistance to the advancing Government forces. On 15 May 1988, the Iraqi air force attacked the village of Wara with chemical weapons killing many civilians. More chemical attacks followed on 23 May 1988 when the villages of the Balisan, Seran, Hiran and Smaquli valleys were bombed. Since many of the villages had already been abandoned as a result of actions taken against them in 1987, the casualties of May 1988 were said to be relatively few. However, the remaining families were treated according to the established pattern: the men were captured and disappeared, the women and children were trucked away to collection centres with some disappearing. Heavy fighting continued for several months before Government forces finally managed to defeat the PUK; the remaining peshmerga fled across the border to Iran.

117. The Eighth Anfal operation, which is also referred to in official Iraqi documents as the "Final Anfal", appears to have been carried out between 25 August and 6 September 1988 in the Badinan region in northern Iraq, i.e. after the end of the Iran-Iraq War and far from the war-zone, but the stronghold of the Kurdistan Democratic Party's peshmerga forces. On 25 August 1988, chemical attacks were launched against Birjinni, Tuka and several other villages. Following these heavy bombardments, the villagers fled from their homes to the surrounding mountains where hundreds of them reportedly died from the cold weather, hunger or the after-effects of the chemical attacks. Many of the fleeing villagers were later captured by Government troops and sent to collection centres. All the men who were arrested are reported to have disappeared; hundreds of them are believed to have been killed in mass executions. The women, children and elderly were later released and abandoned in the plains north of Arbil. The Final Anfal operation resulted in the defeat of the KDP peshmerga.

118. The Anfal campaign appears to have concluded on 6 September 1988 with a general amnesty (promulgated by Revolution Command Council Decree No. 736) which pardoned all Iraqi Kurds who had had "legal" proceedings started against them or who were otherwise being "pursued" for acts committed prior to the amnesty. However, despite the amnesty,

official Iraqi documents record that Kurds captured inside the vast tracks of land which had been declared "prohibited areas" before 6 September 1988 continued to be executed. Those Kurdish families who were released from the prison camps under the amnesty were transported to housing complexes or simply abandoned in the open air: nobody was allowed to return to the demolished villages in the areas which were still defined as "prohibited". Importantly, the amnesty decree (which was applicable for only one month) was not accompanied by abrogation of the laws which threatened the Kurdish population. For example, according to a letter dated 22 November 1988 from Arbil Security, the shoot-to-kill instruction contained in order 28/4008 (see paragraph 121 below) was still being applied "with no exception". Another document, dated 11 April 1989, affirms that the directives contained in order 28/4008 remained in force at that late date. Indeed, it was only being proposed to abrogate order 28/4008 on 22 June 1990 (see Document No. 14 in Annex I).

119. Having described the basic content of the eight operations constituting the Anfal campaign, the Special Rapporteur observes that the evidence serves to establish more clearly his initial findings, i.e. that the Anfal campaign was, like most actions of the Government of Iraq, very well planned, implemented and documented. The immediate effects of the Anfal campaign were to cause: (a) the death of thousands of men, women and children by arbitrary execution or indiscriminate killing; (b) the disappearance of tens of thousands more men, women and children; (c) the arbitrary arrest, detention, and forced relocation of hundreds of thousands of men, women and children; (e) the destruction of thousands of villages including essential economic resources and important cultural properties; and (f) the essential destruction of the rurally based Kurdish way of life. These effects were accomplished in a clearly systematic fashion through the intentional use of obviously excessive force.

120. Evidence relating to the organization and implementation of the Anfal campaign is revealed both explicitly and implicitly by reference to, and examination of, the official Iraqi documents in the possession of the Special Rapporteur. As noted above, the year 1985 appears to have marked a turning point in the history of oppressive measures affecting the Kurds. While many important elements of what later constituted the Anfal campaign pre-date 1985, e.g. the policy against the Barzani clan and the general policy of extending punishments to members of families, tribes and villages, the ground for a comprehensive policy against the Kurds appears to have been laid in May 1985 when military orders were issued instructing the use of "all types of weapons available" against "subversives" in the northern Kurdish territory. This instruction is seen to be linked with subsequent orders and acts including, notably, the June 1985 instructions from the Office of the President that the "elderly, women and children among subversives' relatives should be deported to the regions where the subversives are" and "that detention remains enforceable against subversives' relatives able to bear arms." Such instructions were implemented with meticulous attention as those deported were stripped of their Iraqi nationality and thrown to their fate (on the care and precision with which the Government administered this programme, see E/CN.4/1993/45, Document 6 of Annex I). Under the administration of the then Secretary-General of the Northern Bureau of the Baath Party, Mohammed Hamza al-Zubeidi, an increasingly severe and complex policy of oppression evolved: according to a June 1990 comprehensive proposal to abrogate 13 instructions which, read together, appear to constitute the elements of a single policy, the matrix of decrees, directives and instructions forming that

policy date from 4 September 1985 (see Document No. 14 of Annex I).

121. When either Mohammed Hamza al-Zubeidi proved not to be up to the appointed task or, in any event, someone stronger and more reliable seemed to be required, Ali Hassan al-Majid was appointed Secretary-General of the Northern Bureau of the Baath Party on 18 March 1988 with enormous and exceptional powers over "all civil, military and security organs of the State" (see Document No. 15 of Annex I). Upon taking up his post as the virtual dictator of the region, Ali Hassan al-Majid issued a series of strict and harsh instructions clearly establishing his personal control over affairs in the north and demonstrating no sympathy for even the slightest of humanitarian principles. Al-Majid defined the scope, strategy and bureaucratic structure of the Anfal campaign through two standing orders he issued in June 1987. The orders included a total prohibition of life (human and animal) in defined areas inhabited almost exclusively by Kurds and including thousands of villages in the Kurdish countryside. The first order, numbered 28/3650 and dated 3 June 1987, is a personal directive signed by Ali Hassan al-Majid according to which the armed forces in the region were to kill any human being or animal present in the areas which had been designated "prohibited" (see Document No. 16 of Annex I). The order also implemented a strict economic blockade of the area permitting no foodstuffs, persons, cattle or machinery to reach the villages that had been prohibited. The second significant order, numbered 28/4008 and dated 20 June 1987, was issued by the "Command of the Northern Bureau" under the signature of al-Majid (see Document No. 10 of Annex I). Order 28/4008 expanded the directives contained in 28/3650 and specified the strategies to be employed: it repeated the total prohibition of the designated areas and confirmed the policy to intentionally "kill the largest number of persons" using artillery, helicopters and aircraft at any time of the day or night. Furthermore, and more importantly, the directives included an explicit order to the Security services to detain and interrogate all persons captured in the designated villages with those between the ages of 15 and 70 to be executed after any useful information had been obtained from them. These sweeping directives granted licence to kill and guaranteed impunity thereafter to the Government forces and officials operating in the prohibited areas. By the end of 1987, official documents indicate that the morgues were under heavy pressure to keep up with the inflow of corpses from the mounting executions.

122. While the ostensible object of taking evidently excessive steps against large parts of the Kurdish population was said to be to rid the area of "saboteurs", "subversives", "traitors", "criminals" and a variety of other undesirables, it is clear from the declarations of Ali Hassan al-Majid that the instructions were aimed against all Kurds with the object of eliminating real or presumed opposition. As a result, the policy was to suppress those who could be controlled in amalgamized villages, destroy the rural life-style of these mountain people and liquidate those of apparent oppositional sentiments together with their extended families, tribes and communities. The fact that Ali Hassan al-Majid viewed the situation in such terms is revealed in several of his recorded statements. For example, on 15 April 1988, al-Majid is recorded as having told members of the Baath Party's Northern Bureau and Governors of the Autonomous Region the following:

> "By next summer there will be no more villages remaining spread out here and there, but only complexes. ... I will prohibit large areas; I will prohibit any presence in them. What if we prohibit the whole basin from Qara Dagh to Kifri to Diyala to

> Darbandikhan to Suleiymaniyah? What good is this basin? What did we ever get from them? ... All of this basin, from Koysinjaq to here ... I'm going to evacuate it. ... No human being except on the main roads. For five years I won't allow any existence there ... In the summer nothing will be left."

It is to be stressed that the locations mentioned by al-Majid are exclusively Kurdish. Another example came after completion of the Anfal operations of 1988 when al-Majid is recorded on 21 January 1989 as relating to his Northern Bureau colleagues the following:

> "So we started to show these senior commanders on TV that (the saboteurs) had surrendered. Am I supposed to keep them in good shape? What am I supposed to do with them, these goats ... No, I will bury them with bulldozers. Then they ask me for the names of all the prisoners in order to publish them. I said, 'Weren't you satisfied by what you saw on television and read in the newspaper?' Where am I supposed to put this enormous number of people? I started to distribute them among the governorates. I had to send bulldozers hither and thither ..."

Some months later, in a sort of valedictory address upon completion of his term as Secretary-General of the Northern Bureau of the Baath Party, al-Majid was recorded on 15 April 1989 as saying the following:

> "I said probably we would find some good ones among them, since they are our people too. But, we didn't find any. Never. ... Apart from those two, there are no loyal or good ones. ... I would like to speak about two points: one, Arabization, and two, the shared lands between the Arab lands and the Autonomous Region. The point that I am talking about is Kirkuk. When I came, the Arabs and Turkomans were not more than fifty-one per cent of the total population of Kirkuk. ... Then we issued directives. I prohibited the Kurds from working in Kirkuk, the neighbourhoods and the villages around it, outside the Autonomous Region."

123. It is clear from the very words of the all-powerful Secretary-General of the Command of the Northern Bureau that the Kurdish people ("them", "they", "these goats", "the Kurds") were intentionally targeted as a group. As al-Majid took power in the north and implemented his policy against the Kurds, it seems equally clear that the historically splintered Kurds also saw themselves more and more as a group: in May of 1988, the "Kurdistan Front" was formed of the eight main Kurdish groups then facing the common enemy of severe Government of Iraq policies.

124. As described above in paragraphs 112 to 117, the Anfal campaign was carried out under the direction of Ali Hassan al-Majid in the spring and summer of 1988. By that time, documents in the possession of the Special Rapporteur clearly indicate that the Government had equated extended family relations with the terms "subversives" and "saboteurs", as had been done long before in the case of "the Barzanis". The strategy employed by the Government forces during the Anfal campaign followed roughly the same pattern throughout the various stages of the operations: chemical attacks from air directed both against civilians and peshmerga strongholds, combined with assaults by ground forces against the areas; pillaging of all villages left to the mercy of advancing Government forces; mass arrest,

detention and internal deportation of civilians; and transport of many detained civilians in convoys of army trucks to holding centres where, as a general rule, the adult men were separated from the women and disappeared. The women, children and elderly were normally sent to prison camps and detained in conditions of extreme deprivation. Others disappeared together with the men. Persons who managed to evade the advancing forces were often tracked down in nearby towns and cities by the Security. Consistent with al-Majid's recorded statement of 21 January 1989, documents further indicate that the numbers of persons being executed had reached unmanageable proportions by the end of 1988 when, on 15 November 1988, the Revolution Command Council issued Decision No. 840 foregoing the Constitutional need for ratification of death sentences by the President (see Document No. 17 of Annex I); on 14 December 1988, the President's Office instructed relevant Ministries to expedite the execution process (see Document No. 18 of Annex I). At the time of these decisions, followed by al-Majid's recorded statement, it is to be noted that the Iran-Iraq war had long before ended. Survivors and other eye-witnesses (including some who took part in the executions) report that many of those who had "disappeared" during the Anfal operations were executed and, as Ali Hassan al-Majid almost boasts, were burried in mass graves throughout the country.

125. According to the documents in the possession of the Special Rapporteur, many of the individual decrees, directives and instructions referred to above were in force at the time of the March 1991 uprisings and some may well still be in force. The existence of such powers, orders and personalities in the present Government of Iraq, where Ali Hassan al-Majid holds the rank of Minister of Defense, portends a precarious future for the Kurds.

4. Violations affecting the Marsh Arabs

126. The Special Rapporteur has previously addressed violations affecting the Marsh Arabs in his reports to the General Assembly at its forty-seventh and forty-eighth sessions (A/47/367, paras. 7-16 and 28; A/47/367/Add.1, paras. 15-23, 34-35, 45, 53 (e) and 56; A/48/600, paras. 10-61; and A/48/600/Add.1) and to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/45, paras. 114-130). On the basis of information received in the form of written reports, first-hand testimonies, film footage, satellite photography and official Iraqi documents the Special Rapporteur has in his previous reports expressed serious concern with regard to a wide range of violations for which he believes the Government of Iraq to be responsible in the southern marsh area of the country. As the Special Rapporteur discussed the situation at length and in detail in his most recent report to the General Assembly, only a brief summary is offered herebelow.

127. With regard to the reported violations, the Special Rapporteur draws particular attention to the deliberate and indiscriminate bombardment of civilian settlements, arbitrary killing, arrest and detention, the drying of the marshes and the effective internal embargo on the area which has forced the displacement of thousands of Marsh Arabs. These reports show grave violations of the civil, economic, social and cultural rights of the Marsh Arabs and seem to be part of a deliberate Government policy of targeting these unprotected civilians. Although the marshes in the past have been regularly subjected to Government attacks as they were known to be used as a refuge for political opponents, attacks increased in ferocity and number after the March 1991 uprisings, particularly since the summer of 1992

when the area became the scene of a large scale counter-insurgency campaign under the direction of the present Minister of Defense, Ali Hassan al-Majid. In the course of this campaign, which still continues, many inhabitants of the marshes have been deliberately targeted and victimized for their alleged sympathies with oppositional groups.

128. In so far as military attacks are concerned, intensified activity followed the issuance of a Government order in April 1992 to evacuate the area — with which the population failed to comply. At the end of August 1992, a "no-fly zone" interdicting Iraqi aircraft below 32° latitude was imposed by allied forces acting under Security Council resolution 688. As a result, aerial bombardments stopped, but indiscriminate shelling from ground-based artillery increased. As more and more marshland dried, facilitating better access by ground troops and artillery, increased bombardments coincided with increases in reports of arbitrary arrests. Reports and video material further indicate that the widespread drying of the marshes, together with the artillery attacks, has also caused considerable damage to the environment which is so essential for the Marsh Arab way of life. Water has become stagnant and polluted and has caused the death of large numbers of fish and water buffalo, i.e. the main sources of nutrition and income for the local population. Reed fires, often the result of heavy shelling, have further deprived the inhabitants of the reed they use to build their homes. Further, a side effect of the blocking of the watersupply in the marshes was the flooding of rich agricultural lands south-east of the city of Amara near Kahla. A major effect on the availibility of food and conditions for good health has further been constituted by the effective internal embargo which the Government imposed on the area, where no food and medicine distribution is said to be taking place. In addition, the Special Rapporteur has noted the existence of restrictions and administrative requirements such as the possession of identification cards which, given the peculiar life-style of the Marsh Arabs of whom many have never been registered, effectively deny them access to humanitarian assistance. As a result of the deteriorating situation in the marshes, many have been thus compelled to leave the area and have found themselves stranded in the cities in an impoverished and totally dependent condition. In the summer of 1993, several thousands sought refuge across the border with Iran.

129. Recent reports indicate that the violations referred to above have not come to an end. For example, military attacks on civilian settlements in Maysan Governorate, particularly the areas near Kahla and Musharrah, were reported from October through to the end of 1993. Attacks also allegedly took place in the regions of other marsh area towns, such as Shibayish and Jandalah, in October and November 1993. The Special Rapporteur notes in this regard that, although the flow of Marsh Arab refugees into the southwestern part of Iran's Khuzistan Province has considerably decreased since the summer of 1993, over 1,500 refugees have arrived at the make-shift camp known as Himmet since September 1993; on average, 30 to 40 refugees are known to be still arriving each week.

5. Violations affecting the Shiah

130. The Special Rapporteur has addressed violations affecting the Shiah religious community in his previous reports as follows: A/46/647, paras. 50-51, 55, 92-94; E/CN.4/1992/31, paras. 118-127, 141, 143 (s), (t), (u) and (v), 144, 145 (g) and (h); A/47/367/Add. 1, paras. 49 (c), 51, 55 (q), (r), (s) and (t); and E/CN.4/1993/45, paras. 131-139. Since the submission of these reports, the Special Rapporteur has continued to receive information alleging that discriminatory and repressive policies conducted by the Government of Iraq against the followers of this school of Islam, particularly the members and institutions of its religious establishment, are still being systematically applied. Repressive measures against ethnic minorities of the Shiah faith, such as Faili Kurds, Marsh Arabs and Shiah Turkomans, has often been even more severe.

131. With respect to the physical properties of the Shiah religious community, the Special Rapporteur has already noted in his previous reports the desecration and destruction of a number of Shiah holy shrines. While the most famous of these shrines, notably those of Imam Hussein and Imam Ali, have essentially been restored, the Government has effectively denied the reconstruction of a large number of other mosques, libraries and Husseiniyas (religious community centres named after Imam Hussein who is amongst the most revered Imams of the Shiah). The offers made by the Shiah community to provide funds for the rebuilding of the demolished properties are said to have been either rejected by the Government or subjected to injurious conditions for approval. For example, those very few applications for reconstruction of damaged or destroyed Husseiniyas which have been conditionally approved require that they be rebuilt without any reference to, or identification as, "Husseiniyas" — thus stripping them of their specific identification with Shiah centres of learning and worship. As the Government stalls or obstructs the religious community's efforts in this regard, it has reportedly placed many of the sites on public auction and encouraged local entrepreneurs to use the land for the construction of shopping centres or other commercial purposes. Other shrines and centres of learning or worship have allegedly been converted into offices for various Government agencies including the police or the Security services, sometimes even being used as detention centres. Indeed, the main theological school in the holy city of Najaf, the College of Jurisprudence (Kulliyya al-Fiqh), has never been allowed to reopen as an academy or centre of instruction since the March 1991 uprisings: it is said to operate as a public market housing shops and stores in its classrooms. Other functioning institutions of higher learning are said to suffer from considerable restrictions on their curricula. At the same time, the Government is said to be transferring the legal title and administration of various Husseiniyas (of which there are reportedly thousands throughout the country) and other Shiah properties to the Ministry of Awqaf and Religious Affairs which is thereupon changing the names, specific functions and essential identities of the properties. Reports of destroyed Shiah properties from or following the March 1991 uprisings have also continued to be received: the Marqad Sheikh Kulaini in Suq al-Nahr in Baghdad and the Marqad ibn Tawas in Hilla are said to have been demolished.

132. The clergy and scholarly community of Shi'ism, which used to be so numerous and prolific in the holy cities of Karbala and Najaf, continues to be severely affected by the disappearance in custody of the 105 religious scholars, students and family who were known

to have been arrested on 20 March 1991 together with the late Grand Ayatollah Abul Qasim al-Musawi al-Khoei. The Special Rapporteur has previously noted with great concern that reports received give reason to fear that these persons may have been subjected to severe ill-treatment or torture. In the face of the continued denials of their detention by the Government of Iraq, fear for their fate subsequent to arrest remains considerable while the injurious affects on family and followers remains profound. In the last months, the Special Rapporteur has learned with concern that the Iraqi authorities have apparently also threatened to deport the families of the arrested and missing clergy; a number of families have been given notice to leave the country by 2 March 1994.

133. For the Shiah community of clergy and scholars who remain in Iraq, reports of harassment and interference continue to be received. For example, upon the death of Grand Ayatollah Abdul A'la Sabzevari in August 1993, the Government prohibited the traditional funeral procession or the holding of public Fatiha in Iraq, save for a most modest Fatiha in Najaf: the Government ordered the prompt burial of the Grand Ayatollah which was unceremoniously rushed. Government interference in the selection process for the spiritual leadership of the Shiah community (the Marja'iyya) is also said to be reoccurring as the Government has reportedly been promoting its own candidate while undermining the prospects of the most senior remaining Marj'a, Grand Ayatollah Ali al-Sistani. For example, the Government has reportedly forcefully closed the main entrance to the Khadra mosque in Najaf where Grand Ayatollah al-Sistani prays (thus limiting public access to him during a most important religious exercise). More intrusive, injurious and insidious yet is the reported ban on the publication and circulation of Grand Ayatollah al-Sistani's version of the Risalat al-Ahkam al-Amaliyya (the practical guide to the performance of daily and seasonal rituals, such as methods of prayer, fasting, ablution, etc., and constituting the Grand Ayatollah's religious verdicts) which is essential reading and reference for followers; while the Special Rapporteur observes that interference with such simple, although important, publications constitutes not only a violation of Article 18 of the International Covenant on Civil and Political Rights, but also a violation of Article 19 concerning freedom of information, the insidious nature of this particular prohibition lies in the fact that the practical communion between the religious leadership and the people is severed to the detriment of the community's development, to say nothing of its prospects for survival.

134. While the Government has allegedly continued to interfere with the physical and social institutions essential to the formation and maintenance of the religious community, so too has the Government continued to interfere, in violation of Article 18 of the International Covenant on Civil and Political Rights, with the practices intrinsic to the manifestation of Shiah beliefs and worship. Specifically, the Shiah version of the call to prayer is reportedly still prohibited in a number of districts inhabited by Shiah such as Sayyed Muhammad and Samara and some districts of Baghdad: the freedom of worship through prayer has thus been criminalized, forcing thousands of followers into small and clandestine gatherings for purposes of prayer in fear of discovery. In the same vein, the public commemoration of the martyrdom of Imam Hussein, a central element of the religious life of the Shiah community which takes place during Ashura and at other times, was again prohibited last year as also was the ritual preparation and distribution of food during the holy month of Muharram. Similarly, the formation of the "majlis" for commemoration of the martyrdom of Imam Hussein in Karbala (gatherings which have been held all over Iraq for centuries in order to

hear the simple recitation of the Imam's story) were prohibited. Other traditional gatherings, or majlis, commemorating the deaths of other Imams are also said to have been banned (both in public and in private), such as the Majlis for Imam Mousas al-Khadim in the Kadhimiyya District of Baghdad. The Special Rapporteur has further been informed that, owing to the closure of the College of Jurisprudence at Najaf, Shiah students of theology and law have had to move to the Shari'a College in Baghdad where courses in Shiah philosophy and jurisprudence are said not to be taught. Access to important public collections of Shiah books held in libraries and universities (such as the National, Iraqi Academy and Awqaf Libraries in Baghdad) is also said to have been effectively severed as traditional Shiah texts have either been withdrawn from circulation or placed on permanent reserve. Further, the Special Rapporteur recalls that over 1,000 religious books are reportedly illegal in Iraq.

135. In its attacks on the Shiah faith and community, the Government has also allegedly used its monopoly over the information media to continue a campaign of disinformation, ridicule and humiliation intended to discredit the Shiah and their beliefs. For example, in the 21 June 1993 edition of the newspaper Babil (which is controlled by Saddam Hussein's son Uday), it was announced that a mass marriage ceremony would be held on 1 July 1993 and that all those wishing to be married would be provided free of charge with the following: a ceremony in the Iraqi Hunt Club; a dinner party for their guests; suits for the grooms and wedding gowns for the brides; a musical band with well-known singers; a car for each couple for purposes of the ceremony; and a night in the al-Mansoor Hotel. The announcement further specified that more information was available through the Iraqi Olympic Committee (Chaired by Uday Hussein) and that enquiries could be made through the "Voice of the Youth" radio station of Dar al-Salam (also controlled by Uday Hussein). A story on the resultant mass marriage ceremony and celebrations was broadcast on the international television channel Cable News Network (CNN) on 2 July 1993. However, what was apparently lost on CNN, but could not be ignored by the millions of Shiah around the world, was the fact that 1 July 1993 coincided with the day of Ashura during which all Shiah mourn the martyrdom of Imam Hussein and during which other Iraqis used to show their respect by refraining from celebratory acts. Setting aside the humiliation that such an endeavour seems clearly designed to produce, and without considering the questionable use of resources that such a celebration must have consumed at a time of general suffering among the people, the use of the media must also be viewed in the context of the virtual ban on Shiah religious programmes carried on television and radio.

136. While the special plight of the Marsh Arabs has been addressed above, reports of specific repression affecting Faili Kurds and Shiah Turkomans continue to be received. On the situation of the Faili Kurds, it is to be noted that these ethnically Kurdish followers of Shi'ism whose numbers were historically concentrated around the Hamrin mountain range straddling the Iraq-Iran frontier (notably between the cities of Khanaqin and Badrah) reflect in their persons the fault-lines of much of Iraqi society under Baathist rule: Arab versus Kurd; Sunni versus Shiah; and Iraq versus Iran. Undoubtedly a deserving case for special minority protection under Article 27 of the International Covenant on Civil and Political Rights, the Faili Kurds have suffered considerably since the beginning of Baathist rule because they were suspected of disloyalty by their non-Arab, Shiah nature and their "almost Iranian" geographic location. Consequently, Faili Kurds were expelled from Iraq in several waves beginning in the 1970s and reaching a peak with the expulsion (without their

belongings or compensation) of as many as 300,000 persons in April and May of 1980. In the present day, reports and testimonies received by the Special Rapporteur allege that the repression continues in the form of arbitrary arrest, detention and expulsion. For example, according to testimony received, five families (including men, women and children) were allegedly arrested in July 1993 at a checkpoint near Kirkuk whereupon they were taken to the Security office in Kirkuk, transferred to what is popularly known as "the deportation building" (Tasfirat) in Baghdad, subsequently moved to the deportation building in Baquba (Diyala Governorate) eventually to be deported to Iran on 31 August 1993. The Special Rapporteur also received a report alleging expulsion of Faili Kurds from eastern and central areas of Iraq (including Baghdad) at the beginning of October 1993.

137. Turning to the particular situation of ethnically Turkoman Shiah, the Special Rapporteur refers to his comments below concerning discriminatory restrictions and practices directed against Turkomans in general. However, more severe measures of repression affect the minority of Turkomans who are also religiously Shiah. Specifically, the Special Rapporteur has received reports supported by testimony concerning internal deportations of Turkomans from areas of Shiah concentrations in, for example, particular quarters of Kirkuk, Dakhu, Tuz Khurmatu and other known Shiah Turkoman villages. Testimony received by the Special Rapporteur in December 1993 alleges that a very large number of families in Kirkuk were given deportation notifications at the end of November 1993; 15 families were said already to have been deported to the northern Kurdish territory (without any belongings) while 25 families were said to have been deported to southern Governorates with small amounts of their belongings. In the city of Tuz Khurmatu, where the Shiah call for prayer was reportedly prohibited after the March 1991 up-risings, at least two Shiah mosques, including the main one, have reportedly been closed by the Government and remain so to date. Before their closure, the Government is said to have changed their names to those of "Abu Bakr" and "Omar" — two important Sunni caliphs. The library of the main mosque is also said to have been burnt down. In one Shiah Turkoman quarter of Kirkuk called "District 90", the mosques of al-Haj Rousan, al-Kahya, al-Afandi and al-Thaqalayn are said to have been demolished and most of the estimated 25,000 Shiah population have apparently been relocated to other places. Reports further allege that many Shiah Turkoman youths have been arbitrarily arrested and detained.

6. Violations affecting the Turkomans

138. The Special Rapporteur has addressed violations affecting the Turkoman minority in previous reports to the General Assembly (A/46/647, paras. 48, 55 and 89) and the Commission on Human Rights (E/CN.4/1992/31, paras. 114-117; and E/CN.4/1993/45, para. 78). As referred to before, allegations of violations affecting the Turkoman minority include restrictions on their linguistic, cultural and proprietary rights. Information continues to be received further detailing the nature and extent of the alleged violations.

139. In many respects, the situation of the Turkoman minority is similar to that of the Assyrian minority. Although the Turkoman population constitutes the third largest ethnic community in Iraq with an historical presence dating back over one thousand years principally in the north-central plains of the country, the group still faces the rudimentary problem of official recognition of its identity in terms, e.g., of non-accommodation in the

national censuses and denial of linguistic rights even in places where Turkomans form an overwhelming majority. While prospects for their rights were said to be positive as of 1970, the Government is said to have closed Turkoman schools in 1972 and presently forbids studies in the Turkish language; there is said to be no Turkish media in Iraq save for one Government-controlled radio station in Baghdad. Since 1975, Turkoman cultural societies are said to have had their directors replaced by pro-Government Baath Party members. Turkoman mullahs are said to be forbidden to speak or lead prayers in the Turkish language — a policy which is said to be well-controlled by the fact that all mullahs are officially Government employees drawing Government salaries. With regard to physical properties, old Turkoman mosques still carry Ottoman designs and script, but new mosques are said to be required to carry Arabic designs and script; some mosques and ancient properties are also said to have been destroyed in whole or in part under various pretexts, such as development projects.

140. The allegation that social engineering projects are aimed at altering the ethnic ratios in historically Turkoman regions is articulated in a variety of reports which claim that: administrative boundaries were changed in 1974 to divide Turkoman concentrations; since the mid-1970s, Arabs have enjoyed special incentives and rights encouraging them to move to historically Turkoman areas including especially the oil-rich cities of Kirkuk and Mosul; in the latter half of the 1970s, the names of several villages and places in the Governorate of Kirkuk (Tamim) were officially given Arabic names; and, in the 1980s, Turkoman societies, institutions and properties were also said to have been officially "Arabized".

141. Aside from the allegations referred to above and relating to a programme of internal deportations, the Special Rapporteur has also received allegations in the last year concerning arbitrary arrests and disappearances of Turkomans: on 27 November 1993, three high-ranking Turkoman members of the Army were reported to have been arrested and disappeared from Kirkuk, while on 6 December 1993 three young men were reportedly arrested in Kirkuk on the charge of being members of the Iraqi Turkoman National Party. On 14 December 1993, special patrols of Security and the Baath Party Intelligence (Mukhabarat) were said to have accompanied soldiers in conducting searches of homes in the Turkoman region of Shartorloo (Tamim Governorate) in an effort to identify families for subsequent internal deportations; none of the searches were said to have been authorized by warrant or otherwise to have had judicial supervision.

IV. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions as to the facts

142. In drawing his conclusions as to the facts of the situation of human rights in Iraq, the Special Rapporteur refers to his previous comments concerning the nature and quality of information before him (E/CN.4/1993/45, paras. 169-179). In doing so, it is worth reiterating that it is the normal practice of a judicial enquiry to establish facts through the combined weight of testimony, documentary evidence and physical evidence. While the Special Rapporteur remains completely aware of the fact that he has not been mandated to conduct a judicial enquiry, he has again endeavoured to employ standards of a judicial nature in order to achieve the highest possible degree of certainty in his conclusions. Consequently, general reports and specific allegations of violations have been again investigated with a discriminating eye on the supporting evidence and attempts to obtain corroborations.

143. The Special Rapporteur regrets that his efforts to pay a return visit to Iraq have so far failed to obtain a positive response from the Government of Iraq. The Special Rapporteur also regrets that he has still not received replies to many of the questions he put to the Government of Iraq in previous years. Nevertheless, the Special Rapporteur is confident that much of the evidence brought to his attention speaks for itself, especially the laws of Iraq published in the Official Gazette and also the 18 metric tons of official Iraqi documents to which he has access. In connection with the evidentiary value of the documents, the Special Rapporteur has noted (and previously commented upon) the Government of Iraq's argument that all the documents are falsifications — including any "future" documents (E/CN.4/1993/45, paras. 163-168). As such, the Special Rapporteur has not felt it necessary to seek the Government of Iraq's views on this evidence, the veracity of which the Special Rapporteur remains convinced (in this connection, see E/CN.4/1993/45, paras. 171-172 and 174).

144. The Special Rapporteur concludes that extrajudicial, summary or arbitrary executions continue to occur in Iraq and that the legal order permits such violations. In particular, the fact that a large number of minor offenses entail the extremely disproportionate death penalty constitutes a violation of Article 6 (2) of the International Covenant on Civil and Political Rights. In addition, the authority of non-judicial services to apply the death penalty or to kill persons with impunity constitutes yet more serious violations of the right to life. Indiscriminate use of excessive force of a military character in order to effect police actions also clearly violates the right to life.

145. Detailed reports of a large number of disappearances continue to reach the Special Rapporteur relating mainly to events of previous years. However, recent reports from southern Iraq indicate that the practice continues. Irrespective of the date and number of disappearances reported to the Special Rapporteur, it is clear that large numbers of individuals have disappeared at the hands of Government forces in Iraq and that their dependents remain seriously affected by their disappearance. The fact that the Government of Iraq has still not established a Commission of Enquiry to facilitate the resolution of these thousands of cases constitutes another violation of human rights. This omission is all the more serious in view of the fact that the Government of Iraq clearly maintains detailed

records concerning persons within its jurisdiction and has the capacity to assist those seeking clarifications.

146. On the subject of torture, the Special Rapporteur sees no reason to conclude that any steps have been taken by the Government of Iraq to stop practices of torture or other cruel, inhuman or degrading treatment or punishment. In view of the fact that those forces accused of practising torture remain clearly protected from prosecution or any other penalty, the Special Rapporteur concludes that the practice of torture will most probably continue to be reported in the future. Indeed, information before the Special Rapporteur confirms that torture is wide spread in Iraq and results from a system of State-terror directed at subduing the population.

147. With regard to allegations of arbitrary arrest and detention, the Special Rapporteur does not doubt that such violations take place on a wide scale if for no other reason than an examination of the laws in place which shows that such violations are are permitted and may easily occur. At the same time, the absence of an independent judiciary coupled with a host of executive orders criminalizing far too many aspects of normal civilian conduct, prescribing enormously disproportionate penalties and authorizing arrest and detention without judicial review or any other form of judicial authorization leads the Special Rapporteur to conclude that a significant per centage of all arrests and detentions in Iraq are arbitrary as measured by international standards.

148. On the basis of virtually unanimous reports, testimonies and other information, the Special Rapporteur concludes that there are essentially no freedoms of opinion, expression or association in Iraq. The absolute powers of the State serve to silence opposition and penalize those holding oppositional views or beliefs. No institutions of government or civil society are immune to the impositions of the Baathist ideology of the State. Indeed, the abuses of physical integrity rights have terrorized the population into passive submission to the extent that no oppositional opinions, expressions or associations are apparent in the country. Perhaps most indicative of the severe repression is Revolution Command Council Decree No. 840 of 4 November 1986 which plainly subverts the freedom of expression by prescribing the death penalty for mere insults to the President and other institutions of State and Government.

149. Turning to the freedoms of movement and residence in Iraq, including the right to leave and re-enter one's own country, the Special Rapporteur concludes that there are clear violations of these freedoms found in Iraqi law and practice. Specifically, severe, unreasonable and sometimes gender-based restrictions are placed on travel abroad. On the matter of internal deportations and forced relocations, the Special Rapporteur concludes that Iraqi laws and Government policies violate the freedoms of movement and residence and, in some cases, constitute discriminatory practices based on ethnic or religious affiliations.

150. In examining the right to nationality in Iraq, the Special Rapporteur concludes that many Iraqi citizens have been unjustly stripped of their citizenship and expelled from Iraq in violation of international law. Specifically, hundreds of thousands of Iraqis have been stripped of their citizenship and expelled for reasons which are clearly of a political nature based upon real or presumed disloyalty to the Government. To rectify this problem, a

comprehensive review of Iraqi citizenship law and Government policies and practices would have to be undertaken.

151. With respect to the enjoyment of the right to property in Iraq, the Special Rapporteur concludes that the Government of Iraq violates proprietary rights in a variety of ways. In particular, the confiscation of property is a frequent and often disproportionate punishment for minor offenses and is commonly carried out without judicial supervision and in an invidiously discriminatory manner. Property rights are also violated on spurious charges in order to enrich Government officials or provide revenues for the State. Moreover, violations of property rights are used to alter the ethnic composition of communities and to penalize family members for alleged crimes attributed to their relatives.

152. Among the issues affecting a very large part of the population of Iraq at the present time is the problem of inadequate access to food and health care. The Special Rapporteur concludes that, as long as the Government of Iraq maintains its internal blockades and otherwise discriminates in its distribution of available resources, continues to spend disproportionately on military services to the detriment of resources available for public health, refuses to cooperate fully with international humanitarian organizations in allowing them access to all parts of the country where persons are in need (as required by Security Council resolution 688), refuses to take advantage of the "food for oil" formula available under the terms of Security Council resolutions 706 and 712, and therefore fails to provide those in need, especially the most vulnerable, with adequate food and health care, the Government of Iraq is in violation of its obligations relating to the rights to food and health.

153. The Special Rapporteur observes that the absence of respect for the rights pertaining to democratic goverance seems to be at the root of all other violations of human rights in Iraq insofar as their absence implies a structure of power which is prone to abuse. The Special Rapporteur concludes that genuine and enduring improvements in the situation of human rights in Iraq may not be attained without respect for the rights pertaining to democratic governance. The 1991 Political Parties Act would have been a step in the right direction should it not have suffered from so many inappropriate restrictions and controls.

154. The Special Rapporteur further observes that the effects of many human rights violations bear disproportionately on women and children. Not only are women and children subject to most of the above mentioned violations, including those of the worst kind, but they also suffer the effects of violations inflicted more directly upon others on whom they are dependent, i.e. their husbands and fathers.

155. With regard to violations of human rights of specific ethnic and religious communities in Iraq, the Special Rapporteur notes that the driving motivation for most violations is political, i.e. the eradication of opposition. However, in achieving this objective, it is clear that the Government does not hesitate to interfere with the particularities and private domains of ethnic and religious communities. Examination of specific situations viewed in the light of the nature of the Government also reveals chauvinistic and discriminatory prejudices which explain the existence and character of policies directed against certain groups. For example, a pro-Arab chauvinism appears to be at the root of Arabization policies which deny linguistic, cultural and other minority rights to the Assyrian and Turkoman communities.

156. Without doubt, the ethnic community which has suffered the severest oppression under the Government of Iraq is the Kurdish minority. Notwithstanding the existence of the Law for the Autonomous Region which grants some significant rights to the predominantly Kurdish population, but fails to achieve in practice the political autonomy it suggests (see A/46/647, paras. 47, 55, and 87-88), the Special Rapporteur concludes that the policies directed against the Kurds constitute violations of a variety of human rights. In particular, the policy directed against the Barzani tribe from 1983 to the present which has resulted in the systematic destruction of their homeland together with the disappearance of thousands of their members raises issues of crimes against humanity and violations of the 1948 Genocide Convention. Likewise, and as described in paragraphs 109 to 125 above, the Anfal campaign of 1988 reveals a pattern of gross violations of human rights and clear violations of crimes against humanity which, taken as a whole, may very well constitute another violation of the Genocide Convention.

157. The continuing crisis facing the Marsh Arab population of southern Iraq causes the Special Rapporteur to conclude that, should no steps be taken to cease the repression, the extent and gravity of the reported violations places the survival of this indigenous population in jeopardy. In particular, the programme to drain the marshes constitutes a massive and soon to be irreparable damage affecting the whole population. There is an urgent need to take steps to reverse the drainage and restore the environment to which the Marsh Arab people are inextricably linked. The indiscriminate military campaign against the population must also be abandoned.

158. With respect to the Shiah religious community in Iraq, which constitutes over one-half the entire population of the country, the Special Rapporteur concludes that Government policy systematically violates the rights to religious freedom guaranteed by Article 18 of the International Covenant on Civil and Political Rights and constitutes discrimination in violation of Article 2 of the same convention. In general, the Special Rapporteur discerns a policy of repression animated by an anti-Shiah prejudice and aimed at destroying the private and exclusive domain of religious communion which the Government perceives as a real or potential threat to its hold on power. In view of the systematic threats to the Shiah clergy and the continuous assault on the community's religious heritage, there is a clear need to reassure the community that their religious beliefs and practices will be respected and that their historical traditions and institutions will be safeguarded.

B. Conclusions as to causes

1. The structure of power

a. Introduction

159. While the Special Rapporteur has reached certain conclusions as to the facts of the situation of human rights in Iraq, he believes that a fuller understanding of the situation permitting the determination of appropriate recommendations requires some analysis of the causes of human rights violations in Iraq. Specifically, in order to understand how a particular violation may come about, what failures of the system are at play and/or which persons may be at fault, the Special Rapporteur offers the following brief review of the structure of power in Iraq on the thesis that most violations of human rights derive from abuses of power which are facilitated in the politico-legal order of the State.

160. In Iraq, a key feature of the structure of power is the remarkable centralization of power in a very few institutions and persons. These require some description in order to reveal their structural flaws. As in most States, the basis of the order rests upon some articulated constitutional grounds which establish the institutions of government. In the case of Iraq, the institutions are largely defined in the Provisional Constitution of 16 July 1970 (as amended) together with the National Assembly Act No. 55 of 1980. These laws have been published in the Official Gazette of Iraq and are open to scrutiny. As mentioned above, the International Commission of Jurists has recently published the results of its study of the institutions in a report entitled "Iraq and the Rule of Law". The Special Rapporteur offers his own brief analysis herebelow.

161. According to Article 1 of the 1970 Provisional Constitution, Iraq is a "people's democratic and sovereign Republic, the basic aim of which is to achieve a unified Arab State and establish a socialist system". The Republic is composed of five principal institutions: the Revolution Command Council, the National Assembly, the President of the Republic, the Council of Ministers and the Judiciary. Since the institutions of the National Assembly and the Judiciary have already been described above (and exposed as largely impotent), some detail of the remaining institutions is warranted here.

b. The Revolution Command Council

162. According to Article 37 (a) of the Provisional Constitution, the Revolution Command Council is the "supreme body of the State which, on 17 July 1968, assumed responsibility for the fulfilment of the general popular will by wresting power from the reactionary, autocratic and corrupt regime and restoring it to the people". It exercises absolute power independently of the people on the pretext that it is "the true representative of the will of the Iraqi people".

163. The composition of the Revolution Command Council is determined by Article 37 (b) of the Provisional Constitution which literally names the members. It would therefore appear that any change in the composition of the Revolution Command Council requires an amendment to the Constitution. Moreover, since the Chairman of the Revolution Command

Council also acts as the President of the Republic, the Head of State can only be removed from office by changing the Constitution by a two-thirds majority decision. The Revolution Command Council elects its new members by a similar majority decision among its members. Neither the Revolution Command Council nor the President of the Republic have any fixed term of office. There is no form of public participation in the election of the members of the Revolution Command Council which means that the Council is not accountable to the people for its decisions or actions. Indeed, the members of the Revolution Command Council enjoy full immunity and no proceedings can be instituted against them without the consent of the Revolution Command Council, the procedures of which are also to be established by the Council itself.

164. The Iraqi Provisional Constitution gives the Revolution Command Council extensive powers confirming its control over the country's political life. The Provisional Constitution defines the Revolution Command Council as the principal legislative body with the absolute power to promulgate law and decisions in all fields. The Revolution Command Council was the sole legislative body until the elections to the National Assembly in 1980. In theory the Revolution Command Council shares legislative power with the National Assembly. However, if the Revolution Command Council wishes to enact legislation directly, it invokes Article 42 (a) of the Provisional Constitution. This it frequently does. The Revolution Command Council adopts legislation by majority vote in closed meetings and there is no possibility of reviewing the deliberations preceding the enactment of these laws and decisions. Apart from the power to promulgate legislation the Revolution Command Council also may make decisions of a regulatory nature which have the force of law. This procedure is generally used by the Revolution Command Council to criminalize acts for which no provisions are made in the Penal Code, increase the penalty for acts which are already designated as illegal, add new provisions to or amend an existing provision or limit the jurisdiction of courts in ordinary criminal matters. This absolute legislative power enables the Revolution Command Council to control all spects of political, social and economic life in Iraq and thereby maintain the present order.

165. Amendments to the Provisional Constitution can, according to Article 66 (b) of the Constitution, only be made by a decision taken by two-thirds of the Revolution Command Council. This means that the Revolution Command Council can amend the Constitution whenever and however it wants, in closed session, without being obliged to consult any other institutions. Since, in the absence of a Supreme Constitutional Court, there is no control of the constitionality of legislation enacted by the Revolution Command Council and since the decisions of the Revolution Command Council are not subject to any review procedure, it is possible for the Revolution Command Council to enact legislation contrary to the Provisional Constitution.

166. Aside from sub-paragraph 42 (a) of the Provisional Constitution, referred to above, two other provisions are also important for the role of the Revolution Command Council. Article 42 (b) enables the Revolution Command Council to "promulgate any decisions needed for the application of the provisions of the legislation in force". However, the Revolution Command Council normally requests the President, who holds the "executive authority", to promulgate the decisions needed for the application of an enactment through a stipulation which appears in the text of the enactment itself. Article 43 (a) of the Constitution gives the

Revolution Command Council full authority to supervise defence and security affairs and to promulgate all legislation related to these areas. It is also to be noted that the Revolution Command Council is the only institution with the competence to decide over questions concerning the budgets of the Ministry of Defence and the security services. This obviously gives the Revolution Command Council full control over the armed forces and the security apparatus, which in turn enables it to retain its grip on power.

167. The Provisional Constitution gives the Revolution Command Council extensive powers over pratically every field of government activity. However, the Revolution Command Council does not regard itself as bound by these constitutional provisions. As the "State's supreme body" it is entitled to take any action it deems appropriate. The Revolution Command Council has, e.g., proclaimed numerous amnesties although the Constitution does not contain any provisions on this point. Furthermore, even though the Revolution Command Council has no constitutional power to dissolve the National Assembly, it has this power according to Article 60 of the National Assembly Act. The Revolution Command Council also frequently intervenes in the work of the courts, even though the independence of the judiciary is supposedly guaranteed by the Constitution.

c. The President of the Republic

168. The President of the Republic is elected by the Revolution Command Council by two-thirds of its members (Article 38 (a) of the Provisional Constitution). Apart from being the Chairman of the Revolution Command Council, the President also acts as Head of State, Commander-in-Chief of the Armed Forces and Secretary-General of the Baath Party. As a member of the Revolution Command Council the President is designated by name in the Provisional Constitution. He has no fixed term of office and can only be dismissed by a two-thirds majority decision of the Revolution Command Council.

169. The powers of the President are extensive. He is responsible for preserving the country's internal and external security and also controls the armed forces in his capacity as Commander-in-Chief. This enables the President to formulate national defence policies and supervise the work of the security apparatus. The President also promulgates the laws approved by the National Assembly and the legislation and decisions of the Revolution Command Council. It should be noted that the Provisional Constitution does not specify any time-limit by which the President must promulgate legislation. Consequently, the President can obstruct the work of the National Assembly by refusing to accept legislation for lengthy periods of time. The President is the head of the executive authority and is empowered to appoint and dismiss the Prime Minister and Ministers. He supervises the work of the Ministries and other public institutions and can appoint and dismiss judges, civil servants and military personnel.

170. The President exercises his constitutional powers by issuing decrees (so-called "sovereign acts") which do not require the approval of the competent Ministers and cannot be contested in courts. The President's strong constitutional powers, combined with his dominating position over the ruling Baath Party, the army and the security authorities, have made him the de facto ruler of the country. Although the President is accountable to the Revolution Command Council, which has the power to dismiss him, the members of the

Revolution Command Council can hardly be regarded as more than civil servants following the orders of the Chairman of the Revolution Command Council, i.e. the President of the Republic. This means that the President controls the highest and sole political authority in Iraq and can therefore rule the country as a sovereign.

d. The Council of Ministers

171. Only two articles of the Provisional Constitution are devoted to the Council of Ministers. According to Article 61 the Council consists of the Deputy Prime Minister and Ministers and is presided over by the President of the Republic. The powers of the Council are regulated by Article 62 of the Provisional Constitution and the Council of Ministers Act of 1991. The Council drafts bills of law which are then submitted to the President for promulgation in accordance with the Provisional Constitution. The Council also drafts and promulgates regulations, with the exception of regulations relating to the Ministry of Defence or the Security authorities which are promulgated by the President without consulting the Council of Ministers. Further, it is the duty of the Council to monitor the application of legislation and the decisions needed for its implementation. The Council of Ministers also has the right to permit the establishment of new political parties, monitor their activities and dissolve them (Political Parties Act of 1991).

172. The actual power of the Council of Ministers is, however, extremely limited since the President exercises the real executive authority. It should be noted that the Ministers do not countersign decrees promulgated by the President, regardless of their content. The President is also empowered to appoint and dismiss the Ministers, including the Prime Minister, at will. Thus, the Ministers are not accountable to the National Assembly, as is the case in ordinary parliamentary systems, but to the President from whom they receive their orders and directives.

e. The Baath Party

173. The Revolution Command Council has promulgated a number of enactments and decisions which have consolidated the dominating role of the Baath Party in State affairs and thereby divested the political institutions of much of their independence and credibility. According to the Leading Party Act No. 142 of 1974, all Ministries and Government departments have to adopt the report of the Eighth Regional Congress of the Baath Party as a guideline for their work. Furthermore, the Revolution Command Council has also made it obligatory for all Government departments to comply with the decisions of the regional leadership of the Baath Party. The Revolution Command Council controls the Baath Party by virtue of Act No. 107 of 1974 which prescribes the death penalty for any member of the Party who deliberately conceals his previous political affiliations or is found to have links to other political groups during his commitment to the Baath Party, and Act No. 145 of 1976 which forbids any member of the Baath Party leaving the Party to join any other political organisation. Under Revolution Command Council Decision No. 437 of 1987, government departments are obliged to impose on any of their employees who are Party members the disciplinary sanctions determined by the leadership of the Baath Party. It is also to be noted that the Baath Party is the only political organisation which is allowed to recruit members from, and operate among, the armed forces and the security services (Political Parties Act of 1991).

f. Conclusions

174. Upon review of the institutions of the Republic, noting the impotence of the National Assembly, the Council of Ministers and the judiciary, and realizing the enormous powers centralized in the Revolution Command Council and the President of the Republic, it appears obvious that the role of the Provisional Constitution is not to regulate the functions of public institutions nor to safeguard the rights and freedoms of its citizens. Rather, the 1970 Provisional Constitution appears merely to be an instrument through which the Government attempts to legitimize itself and consolidate its total control over the country.

175. As described above, the politico-legal structure of the State is such that both the legislative and executive powers are held by one single body which is neither accountable to the public nor to any other institution. The Revolution Command Council not only controls the legislation and its implementation, but also has the power to interfere with the administration of justice by obstructing the work of courts or by simply changing their judgements. It can also bypass the official judicial system by establishing special or emergency courts, the judgements of which it may also alter or annul. In the absence of a Supreme Constitutional Court, there is no control over the consitutionality of the activities and decisions of the Revolution Command Council. The independence of the judiciary is therefore only theoretical, which in turn means that there can be no legal safeguards available for the citizens. This analysis confirms the Special Rapporteur's previous characterization of the Iraqi judicial system as a kind of parallel system through which the executive power, i.e. the Revolution Command Council, can bypass the judiciary simply by promulgating the necessary decisions. Therefore, since the authorities can violate the Provisional Constitution without being legally or politically accountable, the Provisional Constitution loses its role as a source of legitimacy and a safeguard for the rights and the freedoms of the citizens.

176. Another important element of the structure of power in Iraq concerns the relationship between the Revolution Command Council and its Chairman, the President of the Republic. Under the Provisional Constitution, the Revolution Command Council is empowered to appoint and dismiss the President. In fact, however, the President is the head of the armed forces, the security apparatus and the Baath Party. This position enables him to exercise effective control over all branches of government and public life, including the activities of the Revolution Command Council. Thus, the role of the Revolution Command Council is reduced to that of an advisory body to the President, which in turn makes the President the sole de facto ruler of the country. The politico-legal structure of the State, therefore, cedes absolute power to the President.

2. The abuse of power

177. In having described how the politico-legal organization of the Republic of Iraq constitutes of itself a systematic cause of human rights violations, not only as a matter of individual laws and a general order of laws which by their promulgation constitute violations but also insofar as the organization of the State almost requires violative acts if attributed powers are to be accordingly applied, it seems necessary to underline the fact that the activities of those in positions of power do in fact violate human rights. This may imply some restatement of matters already expounded upon in chapter III above. However, at the

risk of some repetition, it is important to show that the persons holding power — the rulers of Iraq — not only can but do abuse their power through constant violations of human rights. Indeed, so routine and abusive are these acts that they have over the years come to constitute an endemic element of government policy intruding entirely into the daily lives of all those within the jurisdiction of the State.

178. To illustrate the above point, the Special Rapporteur offers the following examples of Revolution Command Council decrees (all of which bear the signature of Saddam Hussein) which have been issued at different times since 16 July 1979, address all aspects of public and private life and affect persons in all parts of the country or beyond. Ranging from petty and personal punishments or favours to the most far-reaching effects upon the lives of millions of persons, the examples offered are hardly isolated or unique acts: the Special Rapporteur could cite many more. In no particular order, they have instructed: the suspension of criminal convictions and terminated judicial processes concerning named individuals (implementation by the competent Ministers); the exemption of a named Imam from mandatory retirement (implementation by the Ministers for Awqaf and Finance); the exemption of a pharmacist from a medical grading requirement (implementation by the Minister of Health); the suspension of a named staff member of the Ministry of Culture and Information (implementation by the Minister of Culture and Information); the award of the highest rank in the Armed Forces to Saddam Hussein (implementation by the competent Ministers); the exemption of a named person from the requirements of a medical grading and appointment of the individual as a physician at the Central Eye Hospital in Baghdad (implementation by the Minister of Health); the exemption of Baath Party offices in the provinces from having to pay water or electricity fees (implementation by the competent Ministers); prohibition of employment in official departments of government, semi-official departments of government or corporations in the public sector to any Iraqi citizen who marries a foreigner (implementation by the competent Ministers); cancelation of an order of dismissal from, and instruction to return to, the College of Education in Baghdad concerning a named individual (implementation by the Minister of Higher Education); the withdrawal of citizenship from, and deportation of, Iraqis of "foreign origin" if they "appear disloyal to the country, the people, and the higher national and social goals of the revolution" (implementation by the Minister of Interior); the payment of large sums of money to Iraqi husbands of Iranian citizens upon divorce and deportation of their wives and remarriage to Iraqi citizens (implementation by the competent Ministers); the immunity from legal process against those assigned to chase military service evaders or deserters, no matter what damage caused or injuries inflicted (implementation by the competent Ministers); the prohibition of conveyancing of movable or immovable property from an Iraqi citizen to a non-Iraqi spouse (implementation by the competent Ministers); the dismissal and retirement of named judges (implementation by the Ministers of Justice and Finance); the award of The Medal of the Revolution, at the First Grade, to "the struggling comrade Saddam Hussein" in acknowledgement of his actual and direct participation in the revolution of 17-30 July 1968 (implementation by the competent Ministers); the suspension of a doctor at the Children's Hospital in Diwaniyah and the withdrawal of his degree (implementation by the Ministers of Health and Finance); the prohibition of the practice of law to two named lawyers; the appointment of Ali Hassan al-Majid as Secretary-General of the Revolution Council for the Organization of the North and granting personal authority over all affairs of civil, military and security agencies including the Executive Council of the Autonomous Region of

Kurdistan, all governors and administrative directors under the Ministry of Local Government, the intelligence services of the Ministries of Interior and Defense, and the Popular Army — i.e. a grant of absolute power over millions of people; the doubling and tripling in July 1991 of the salaries of "friends of the President and leader Saddam Hussein" (implementation by the competent Ministers); and, of course, the naming of Saddam Hussein as Chairman of the Revolution Command Council on 16 July 1979.

179. According to the Provisional Constitution, the 9 named members of the Revolution Command Council clearly hold in their persons the basis of power. However, they are all subject to the power of Saddam Hussein as President of the Republic, Secretary-General of the National Command of the Baath Party (to whom all members of the Government are subordinated) and Commander-in-Chief of the Armed Forces. Because of the absolute and personal power wielded by Saddam Hussein, his close family members have been placed in positions of power with their familial link being more important than any formal status.

180. Examination and analysis of the order of government in Iraq demontrates that those in power use their positions in almost every conceivable way in order to eradicate opposition and control all privileges. To defeat opposition and secure the compliance of the population, power is abused as the Government discerns vulnerabilities and exploits them to the fullest. In the process of subjugating the population, power is abused not only vertically, i.e. through direct and immediate oppression upon the population, but by means of horizontal effects whereby social ties are also exploited. For example, family members are routinely held responsible for the alleged "crimes" of their relations, thus instilling a clear interest in every family to check the actitivities of all family members (see Document No. 19 of Annex I). Other social institutions are also exploited in this way as the Government abuses the traditions and values which imbue tribal and religious communities. For example, tribal and religious leaders are made to swear (on penalty of death and sometimes against their values) the allegiance of themselves and their communities to Saddam Hussein: a breach on the part of any member of the community incurs the responsibility of community leaders and frequently the entire community (see Document No. 20 of Annex I). According to editions of the Iraqi newspapers Al-Thawra and Babil dated, respectively, 17 February 1993 and 13 December 1993, the obtention of such oaths, which community leaders may feel obliged to make either to save their communities from punishment or to secure some necessary "privilege", continues on a large scale. Further, the fundamental institutions of marriage and motherhood are abused as wives and mothers are held responsible for the alleged "crimes" of their husbands and sons. Moreover, the Special Rapporteur notes that power is further abused and control is further established by, for example, video-taping acts of allegiance (see Document No. 21 of Annex I).

181. In the process of exploiting the social institutions of Iraqi society, the methods of abuse are extreme. Severe humiliation and degradation range from religious insults, such as the arrangement of a mass marriage celebration on the Shiah holy day of Ashura, to insidious assaults such as requiring members of the Islamic Da'wa Party to carry out the executions of their own Party members (see Document No. 22 of Annex I). Such techniques serve to terrorize the population by highlighting the impotence of resistence. The processes of extreme dehumanization and terror also largely explain the practices of torture, rape and other brutal acts sometimes carried out in the presence of family members.

182. Some dehumanizing practices appear to surpass any apparent objective. For example, some methods of torture seem only to be explained by cruel and brutal tendencies: one official Iraqi document in the possession of the Special Rapporteur records the fate of a mentally retarded man who, being found in "the demolished village of Shaikh Tawil in the administratively cancelled sub-district of Bibaz", was arrested, killed, decapitated and had his head delivered to the General Directorate of Security (see Document No. 23 of Annex I). Indeed, as so many official Iraqi documents show, those in power accord little or no value to human life. This fact is most evident in the attitude of those in power towards the death penalty. For example, in September 1983, while running a war and an entire modern State, documents show that Saddam Hussein had the time to authorize (and presumably consider and reflect upon) the execution of over 500 persons in the space of just 10 days (see E/CN.4/1993/45, Document 3 of Annex I thereto). Official Iraqi documents further show that, by 15 November 1988 (i.e. after the end of the Iran-Iraq war), Saddam Hussein no longer felt the need to fulfil his constitutional responsibility to review every death sentence as he simply granted the power to the "competent authorities" (see Document No. 17 of Annex I); it may be deduced that Saddam Hussein either did not view the matter as serious enough for his consideration, believed other "competent authorities" to be more appropriate for consideration of such matters, or (perhaps much worse) he could no longer cope with the number of executions at that time. Indeed, the Special Rapporteur understands that the non-governmental organization Middle East Watch long ago simply stopped keeping track of records of executions found in official Iraqi documents because there are just too many. Clearly, the abuse of power that this implies has been made possible by both the structure of the State and the character of the personalities who dominate it.

183. The extent of abuse of power obtains perhaps its most disturbing dimension in certain racist views. Aside from the chauvinistic and prejudicial tendencies which have been referred to above, the Special Rapporteur recalls the characterization of the Marsh Arab population as "monkey-faced" (apparently a reference to the dark skin and curly hair of certain Marsh Arabs; see E/CN.4/1992/31, para. 126) and draws attention to Ali Hassan al-Majid's characterization of the Kurdish population as "goats" (apparently a reference to the mountain lifestyle of much of the population who herd goats for their wool, meat and milk). Another disturbing reference found in many official Iraqi documents in the possession of the Special Rapporteur relates to a single Kurdish tribe characterized as "criminal" through simple references to the "Barzanis" and "the scions of treachery" (salilu al-khiyana) (apparently references to the descendents of the Barzani tribe formerly headed by Moustapha Barzani who had lead an insurgency against the Government in the early 1970s). Such apparent biological groupings and dehumanization of entire groups may partly explain policies such as those against the "Barzanis" in 1983, the Anfal campaign of 1988 and the present policy in the southern marsh area of the country.

184. Those in power in Iraq have used the politico-legal structure to bolster an order which permits the secure enjoyment of essentially no human right or freedom. Through the construction of a web of informers including community leaders, friends and family, and the existence of a security apparatus which may intrude into the most private affairs of the individual, it is difficult to speak of the enjoyment of any freedom in Iraq. This order is justified by a revolutionary logic and a militarism which requires severe restrictions of human rights and seems to require an enemy. The continuing effect of such an order is a complex

of abusive acts which seem impossible to catalogue or calculate. Insidiously, those in power are able to obtain the compliance of others in carrying out abusive acts under damnation of themselves, their loved ones and their spiritual integrity. In effect, those in power damn the people and then, in the worst way, make the people damn themselves, damn their children, damn their families, damn their neighbours, damn their tribes, damn their religions and damn their futures: the people are stripped of all dignity, shamed and rendered compliant, "guilty" and hopeless. They are pacified.

C. Conclusions as to responsibilities

1. State responsibility

185. As a matter of general international law, the State of Iraq must respect all those obligations to which it has freely consented, by virtue of the principle of pacta sunt servanda. Consequently, the non-respect of such obligations entails the responsibility of the State for the wrongful act or acts. Since Iraq has freely undertaken a variety of human rights obligations as referred to above in paragraphs 13 and 14, and insofar as the wrongful acts and omissions described in chapter III are imputable to the Government of Iraq acting as agents of the State, it follows that Iraq is responsible in international law for the aforementioned human rights violations. Aside from its responsibility for numerous and most serious violations of, inter alia, the instruments forming the International Bill of Human Rights, the Special Rapporteur notes that the information before him also demonstrates State responsibility for serious breaches of the 1925 Geneval Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare and may prove State responsibility for breaches of the 1948 Genocide Convention. Moreover, and as established in his previous reports to the Commission on Human Rights, the Special Rapporteur observes that there are no permissible excuses which the Government of Iraq may invoke to avoid State responsibility for the situation of human rights in Iraq.

186. With regard to the special legal obligations which pertain to the State of Iraq pursuant to a host of mandatory Security Council resolutions, the Special Rapporteur further observes that State responsibility is incurred by Iraq's continuing failure to fulfil its special obligations. In relation to human rights obligations, the Special Rapporteur refers to Security Council resolution 688 (1991) together with resolutions 706 (1991) and 712 (1991). More specifically, the Special Rapporteur observes that Iraq continues to be in breach of its special international obligations as long as it: fails to cease its repression of its civilian population; fails to cooperate fully with international humanitarian organizations seeking to relieve the suffering of the people from shortages of essential humanitarian supplies; and fails to take advantage of the "food for oil" arrangement which would enlarge the humanitarian resources available to the population to the amount of at least U.S.$900 million and (as the Secretary-General inferred in his 1 February 1994 press conference at United Nations Headquarters (see SG/SM/5216)), perhaps billions of dollars.

2. Individual responsibility

187. The Special Rapporteur has previously observed that certain individuals at the highest echelons of government in Iraq carry special and individual responsibility for a large number of violations and that international law would not afford immunities to those responsible (E/CN.4/1993/45, para. 186).

188. Following further study and analysis, the Special Rapporteur believes that the two persons who hold the most responsibility, of a special and individual nature, for serious human rights violations are Saddam Hussein and Ali Hassan al-Majid. According to the principle of command responsibility, their responsibility is derived from their positions of command, both in terms of their formal positions of State and also their practical positions of command over specific policies, orders and resulting events. To be specific, Saddam Hussein holds the following positions of power: President of the Republic, Chairman of the Revolution Command Council, Secretary-General of the Regional Command of the Baath Party, Secretary-General of the National Command of the Baath Party, and Commander-in-Chief of the Armed Forces; pursuant to Revolution Command Council Decision No. 150 of 9 February 1988, Saddam Hussein oversees the General Directorate of Security and, until May 1991, he was also Prime Minister. Saddam Hussein's cousin Ali Hassan al-Majid is presently the Minister of Defense and also holds, or has held at various significant times, the following positions of power: Director General of the National Secretariat of the Revolution Command Council; Member of the Regional Command of the Baath Party; Member of the National Security Council coordinating the security and intelligence services; Military Governor of Kuwait Governorate; Minister of Interior; Minister of Local Government; and Secretary-General of the Baath Party's Bureau for the Organization of the North.

189. Notwithstanding the responsibilities held by Saddam Hussein and Ali Hassan al-Majid for acts which constitute crimes against the peace (such as the invasion of Kuwait on 2 August 1990) and crimes of war (such as in relation to events during both the wars with Iran and Kuwait), the Special Rapporteur believes that serious violations of human rights committed against the civilian population of Iraq both in times of war and peace involve crimes against humanity committed under and pursuant to the commands of Saddam Hussein and Ali Hassan al-Majid. Specifically, the use of chemical weapons against numerous communities in northern Iraq and other events that took place pursuant to implementation of order 28/4008 of 20 June 1987, including the Anfal campaign of 1988, constitute crimes against humanity. Other acts, such as those carried out against the "Barzanis" similarly constitute crimes against humanity.

D. Recommendations

190. The Special Rapporteur regrets that he finds it necessary to repeat all of the recommendations made in his report to the Commission on Human Rights in 1993. The Special Rapporteur also finds it necessary to make additional recommendations. The Special Rapporteur recommends:

(a) That the Government of Iraq take immediate steps to bring the capacities and actions permitted of its military and security forces into conformity with the standards of international law, in particular those of the International Covenant on Civil and Political Rights;

(b) That the Government of Iraq abrogate all laws granting impunity to specified forces or persons killing or injuring individuals for any purpose beyond the administration of justice under the rule of law as prescribed by international standards;

(c) That the Government of Iraq immediately establish a national commission on disappearances, take appropriate steps to cooperate closely with the Working Group on Enforced or Involuntary Disappearances to resolve those thousands of cases which have been submitted through this body, and otherwise cooperate fully in the resolution of the cases of disappearances of Kuwaitis and third-country nationals who are said to have disappeared in detention during or subsequent to the Iraqi occupation of Kuwait;

(d) That the Government of Iraq take immediate and unequivocal steps to stop the practices of torture and other cruel, inhuman and degrading treatment or punishment;

(e) That all persons arbitrarily detained be immediately released and that steps be taken to compensate all those who suffered arbitrary arrest, detention or other miscarriages of justice especially under special courts such as the Revolutionary Court;

(f) That the Government of Iraq immediately abrogate all legislation and abolish all policies effecting punishments imposed on persons for the alleged crimes of family members and others of extended relation;

(g) That steps be taken to restore the independence of the judiciary and to subject the executive to the rule of law by means of establishing a constitutional court;

(h) That the Government of Iraq take steps to facilitate the enjoyment of the freedoms of opinion, expression and association, in particular by decriminalizing the expression of oppositional views, relinquishing Government controls over the media and literary and artistic communities, and permitting the formation of independently organized trade unions;

(i) That the Government of Iraq immediately remove all restrictions relating to the entry and exit of citizens to and from the country, including removal of the prohibitous exit tax;

(j) That the Government of Iraq review its citizenship law with a view to safeguarding against the arbitrary or discriminatory withdrawal of citizenship, the repatriation of persons who were previously expelled from Iraq, and with a view to extending full citizenship to the largest number of long term residents who would otherwise be Stateless;

(k) That the Government of Iraq abrogate all discriminatory legislation and cease all discriminatory policies which interfere with the free and equal enjoyment of property, and that those whose property has been arbitrarily or unjustly destroyed or confiscated be appropriately compensated;

(l) That the Government of Iraq end its internal economic embargoes on both the northern and southern regions and take such steps as to cooperate with international humanitarian agencies in the provision of relief to those in need throughout Iraq;

(m) That, especially in view of the extremely serious lack of food and medicine in the country, the Government of Iraq immediately act to take advantage of the "food for oil" formula according to Security Council resolutions 706 and 712 which, as the Secretary-General has recently confirmed, would enable the Government to purchase hundreds of millions, if not billions, of dollars worth of urgently needed foodstuffs and medical supplies;

(n) That the Government of Iraq abrogate all laws discriminating against women and abide by its obligations pursuant to the Convention on the Elimination of Discrimination against Women;

(o) That the Government of Iraq take steps to ensure that no person under the age of 18 be subjected to the death penalty;

(p) That, in the interest of ensuring that the Government of Iraq genuinely reflects the will of the people, steps be taken to render the executive accountable to the citizenry in a clear and meaningful way. Specifically: the institutions of government should benefit from a separation of powers; unreasonable restrictions on the freedoms of opinion, expression and association should be removed along with the legislated "leading role" of the Baath Party; and the repressive restrictions contained in the Political Parties Act should be abolished.

(q) That, in fulfilment of its obligations pursuant to Article 27 of the International Covenant on Civil and Political Rights, the Government of Iraq take steps to ensure the recognition and enjoyment of minority rights on the part of the Assyrian, Kurdish, Marsh Arab, Turkoman and other minorities;

(r) That the Government of Iraq immediately cease its periodic shelling of Kurdish agricultural lands, cooperate in the identification of minefields with a view to facilitating their marking and eventual cleaning, cooperate with international aid agencies in the provision of humanitarian assistance to the northern Kurdish region, and take steps towards the peaceful settlement of the internal dispute;

(s) That, in relation to the southern marsh area and its Marsh Arab population, the Government of Iraq implement the recommendations made by the Special Rapporteur in his interim report to the forty-eighth session of the General Assembly (see A/48/600, para. 82) including, inter alia, the immediate halting and reversal of the draining of the marshes and the ceasation of its military activities against the civilian population of the area;

(t) That the Government of Iraq immediately cease its interference in the religious activities of the Shiah community and take such steps as to compensate it for damages and to locate the missing clergy and their families;

(u) That, considering the exceptional gravity of the situation of human rights in Iraq, the Government of Iraq agree to the stationing of human rights monitors throughout the country;

(v) That, irrespective of the Government of Iraq's position with regard to the stationing of human rights monitors within the country, sufficient human and material resources be provided for the sending of human rights monitors to such locations as would facilitate improved information flow and assessment and would help in the independent verification of reports on the situation of human rights in Iraq.

Annex I

SELECTED DOCUMENTS FOUND IN IRAQI SECURITY OFFICES

The following texts are translations of selected official documents of the Government of Iraq taken from the offices of regional security departments in the Autonomous Region of Kurdistan.

Document No. 1

In the Name of God, the Merciful, the Compassionate

Revolution Command Council
Decision No. 986
Date: 21 July 1981

Decision

Pursuant to the provisions of article 42, paragraph (a), of the Interim Constitution, the Revolution Command Council meeting on 21 July 1981 decided as follows:

1. The courts and police tribunals are not permitted to hear any proceedings brought against the units assigned to track down deserters and evaders of military service in the event of such units being obliged to use force, resulting in the infliction of physical injury or material damage, in order to arrest such deserters and draft evaders.

2. All proceedings brought against members of the units covered by the provisions of this Decision shall be closed and the legal penalties imposed on them shall be suspended.

3. The competent Ministers shall put this resolution into effect.

(Signed)
Saddam Hussein
Chairman of the Revolution Command Council

Document No. 2

A Single Arab Nation with an Eternal Message

Arab Baath Socialist Party
Iraqi Region
Headquarters of the Bureau for the Organization of the North
Secretariat

Personal and Confidential

Ref: 1035 Date: 13 Rajab 1409 A.H., 19 February 1989

To: Northern Region Intelligence Organization

Subject: Explanatory note

With reference to your letter Section 3/Division 3/221 of 5 February 1989:

1. It has been decided to carry out the death sentence on all the criminals named in your above-mentioned letter, without any need to refer them to the examining court of the General Directorate of Military Intelligence.

2. With regard to the family of the fugitive criminal Abbas Bayiz Balu who are currently living at Arbil, directives will be issued in due course concerning the manner in which they should be dealt with.

You are requested to take the necessary action and notify us. With regards.

(Signed)
Abdul Rahman Aziz Hassan
Secretary of the Northern Affairs Committee
19 February 1989

[Manuscript note:] Urgent detailed explanatory note. (Signed and dated 22 February).

Document No 3

In the name of God, the Merciful, the Compassionate

Personal and Confidential

Al-Sadiq Security Sub-directorate

Ref.: 703/3/1989

Date: 22 March 1989
15 Sha'ban/3/...

To: Arbil Security Directorate/Political Section

Subject: Dispatching of accused

Under the auspices of Al-Sadiq District Commissioner, and in the presence of Comrade Secretary of Rawandouz Company of the leader Party, Al-Sadiq District Youth Centre organized on 20 March 1989, at 11 o'clock, a music party to celebrate March and Persian New Year's Day festivals. During the party, a poem entitled the crazy shepherd was recited and jokes of a hostile political nature were told under a section called "replies to letters". The said poem and jokes have been added to sections of the party's fixed schedule without the knowledge of the party's supervising committee, which is comprised of the director of Al-Sadiq District Youth Centre and Comrade Merzah Yousif, the leader Party official in charge of Al-Sadiq area. At the end of the music party we arrested, in coordination with Al-Sadiq District Commissioner and Comrade Secretary of Rawandouz Company of the leader Party, in their capacity as members of the Security Committee in al-Sadiq District, the accused: Jamal Hamad Amin Mustapha, Acting Director of Al-Sadiq Youth Centre, Rezyar Ahmed Faqi, combatant in regiment (33) D, and Mustashler Sheikh Suleiman Sheikh Mohammed, Master of Ceremonies, who presented the said poem and jokes, Jalal Mahmoud Haji Mahmoud, owner of Deyar Bakr recordings, who told the jokes and confessed that, fed with the idea by the Director of Al-Sadiq District Youth Centre, it was him who originated the jokes, Hamad Ali Othman, an earner, who recited the poem and admitted that it was him who composed it. All of them are members of Karoukh theatrical troupe run by the above Centre. On interrogation, they confessed that which is written down in their affidavit. The papers were referred to Al-Sadiq investigating magistrate who decided, according to article 210 of Public Law, to put the aforementioned accused into custody up to 2 April 1989. Attached herewith copies of their affidavit, warrant of arrest and vocal evidence. You are kindly requested to acknowledge receipt. Regards.

(Signed)

Security Lieutenant
Al-Sadiq Security Officer

Enclosures:

1. The poem with the translation

2. The jokes with the translation

3. The party's schedule fixed by the supervising committee

4. (1) Video cassette

5. (2) Recording cassettes

A copy to:

- Shaqlawa Security Directorate. Further to our cable no. 700 dated 20 March 1989. For your information. Regards.

Signed
[Manuscript note:] With the originals

Document No. 4

REPUBLIC OF IRAQ
Ministry of the Interior
Directorate of Public Security
Security Directorate, Autonomous Region

Ref: 11204
Date: 9 May 1987

Valiant Comrade Ali Hassan al-Majeed, Member of the Regional Command of the Arab Baath Socialist Party:

Dear Sir,

1. On the morning of 22 April 1987, a person entered the Faculty of Arts at Salahuddin University, stood in the courtyard of that Faculty and began a verbal attack on the Party and the Revolution, using the following words: "Down with the regime! .... The hospitals are full of wounded ... The Government is spraying the Kurds with chemical substances in order to kill them ... The people are homeless since the Government has demolished their homes and villages".

2. The person concerned was immediately arrested by members of the Security Directorate, Arbil Governorate. On interrogation, the following was ascertained:

(a) The person in question is called Sabri Boya Toma al-Malih, born in 1956, Arbil, Ain Kawa sub-district. He is a graduate of the Faculty of Law and Politics/Baghdad University.

(b) He is currently a military deserter from the 44th Light Anti-Aircraft Battalion.

(c) The said person sympathizes with the hireling Communist Party; he is from a Communist family and has brothers who fled abroad, namely:
- Najeeb Boya, former employee of the Ministry of Agriculture, currently in Romania.
- Saadi Boya, teacher, currently in the Soviet Union.
- Amir Boya, student at Baghdad University, currently a fugitive abroad.

The person in question also has a cousin called Habib Youssuf Toma al-Malih, a Communist, who was arrested by Arbil Security Directorate and sentenced to death by the Revolutionary Court in 1982.

(d) He admitted uttering the above-mentioned words in the courtyard of the Faculty, claiming that he did so due to depression. He denied having any organizational links with any hostile political party.

3. It seems that the accused is not in full possession of his mental faculties. Medical papers found on him proved that he was receiving treatment from doctors because he was suffering from schizophrenia and depression.

You are kindly requested to take note, Sir, and we propose to have him referred to a tribunal to be duly judged. We await your orders. With regards.

(Signed)
Security Brigadier
Assistant Director General, Autonomous Region

[Manuscript note:] We thought that you had carried out the people's just sentence passed on him. I am astonished to discover that he is still alive !! (Signed and dated 11 May 1987).

Document No. 5

Confidential and Urgent

Time and date of drafting:
12 June

From: First Battalion, 22nd Infantry Brigade, Security
To: All companies (3)

Ref: Security/78

With reference to letter No. 90 dated 31 May 1991 from the First Corps transmitted to us under cover of letter No. 80 dated 12 June 1991 from the 22nd Infantry Brigade concerning prevention of acts of sabotage and the imposition of control over towns and sub-districts, we have decided as follows:

1. Any Kurd, armed or unarmed, who attempts to insult a member of the armed forces is to be killed.

2. With effect from 15.00 hrs. on 31 May, the 22nd Brigade and the Commando Brigade of the Second Corps shall begin imposing full control over Sulaimaniya town and shall declare a curfew in regard to persons and vehicles.

3. Any soldier who leaves his post is to be executed.

4. Units and formations shall make an inventory of weapons and any soldier who loses his weapon is to be executed.

5. All gatherings of more than 10 persons are prohibited.

6. Any person found wandering in Sulaimaniya town, attempting to disrupt public order and disobeying directives is to be executed.

7. Every soldier shall be informed of the above directives.

8. The 1st and 15th Battalions and the 1st and 20th Infantry Brigades shall be stationed at the entrance to Sulaimaniya and shall be ready to move in whenever needed. The 22nd Infantry Brigade, together with the Commando Brigade of the Second Corps, shall take up position at selected locations in the town, each location being manned by a force of not less than platoon strength and preferably by a company.

9. Deployment to the said locations shall be effected in a quiet and fully controlled manner.

(Signed)
Captain
p.p. Commander of the First Corps/22nd Infantry Brigade
June 1991

Document No. 6

In the name of God, the Merciful, the Compassionate

Public security
Director of Security in Arbil Governorate

Ref.: Political Section 3/5666
Date: 25 June 1987

Confidential

Shaqlawa

To: All Security Directorates of Departments
and Sub-directorates and Political Sections

Subject: Hostile Demonstration

Firstly:

1. On the first of May 1987 Kurdish opposition groups in Britain organized a hostile gathering in front of our embassy in London to protest against what they termed the use by Iraq of chemical weapons against towns and villages in the north of the country.

2. The following hostile elements took part in the demonstration:

(1) Delshad Miran Khushnaw - (Hashdaq) hireling clique - Shaqlawa
(2) Kamal Mahmoud - Iran's agents' clique
(3) Bakou al-Jaff - (Hasak) hireling clique
(4) Hussein Sinjari - Iran's agents' clique
(5) Sirwan Muhsen Dehzaei - Iran's agents' clique - inhabitant of Arbil
(6) Kawah Fatah Byarani
(7) Sabah Faili (Hasak hireling clique)
(8) Hushyar Abdul-Rahman Rashid - "Salilu Al-Khiyana" clique
(9) Mohammed Ma'rouf - "Salilu Al-Khiyana" clique
(10) Serbast Haji
(11) Adnan Kirkukli - "Salilu Al-Khiyana" clique
(12) Imad Kirkukli - "Salilu Al-Khiyana" clique
(13) Sawan Ahmed Ghareeb
(14) Delir Baban - "Salilu Al-Khiyana" clique

Secondly:

It has been decided to confiscate their property.

You are kindly requested to take the necessary action, provide us with detailed information about them and keep us informed.

(Signed) Security Major
p.p./Director of Security
in Arbil Governorate

Document No. 7

In the name of God, the Merciful, the Compassionate

Directorate of Security in Arbil Governorate
//Section 3//

Highly confidential

Ref.: 15161
Date: 23 Rabi' I 1410 A.H.
23 October 1989 A.D.
To: All Security Directors of Departments (Shaqlawa)

Subject: Approval

The Autonomous Region Security has notified us of the following:

We were informed by General Directorate of Security /Political Section/ that it has been informed by Office of President of the Republic that approval of our Leader and President (may God preserve him) has been obtained concerning the following:

1. That Party and security organs shall prepare special educational programmes to psychologically influence members of deported families and shall endeavour to change their previous convictions.
2. That, in order to make them break up with saboteurs as well as with their subversive past, they shall be followed up from the security standpoint.
3. That their children shall be taken in by mass or professional organizations, such as the National Federation of Iraqi Youth and Students, vocational and cultural clubs and associations and Women's Federation.
4. That their children, who are within pioneers age group, shall be placed under the supervision of the organizations concerned and that particular programmes shall be devised for them.

We require that attention be paid in that respect and that you prepare programmes in that connection.

Please inform us.

(Signed) Security Colonel
Director of Security in Arbil Governorate
October 1989

Document No. 8

Confidential and Urgent Cable

To: Security of the Autonomous Region

From: Dohuk Security / Dir. 64

Date: 5 August 1985
Ref: 12461

Further to our cable No. 12265 dated 1 August 1985.

We are submitting hereunder the daily status report on the families deported from our governorate after the withdrawal of all official documents proving their Iraqi nationality. Please take note. With regards.

(Signed)
Director of Security, Dohuk Governorate.
4 August

[Included is a list of 18 family members of 5 "fugitives who joined the ranks of the subversives". Among whom are listed a daugther of 8 years old and a father of 69 years old]

Copy to:
Political Division }
Directorate 78 } To be marked
Register of detainees }
Register of fugitives }

Document No. 9

In the name of God, the Merciful, the Compassionate

Office of the President of the Republic

The Secretary

General Security Directorate

Directorate of Security in Arbil Governorate

Ref.: Section 5/12386

Date: 24 August 1989 A.D.

23 Muharram/1410 A.H.

Highly Confidential and Personal

To: Shaqlawa Security Directorate

Subject: Expulsion

Your cable no. 4998 dated 21 August 1989.

Our referred to letter contains the text of the Department of Presidential Affairs letter therein stated the order of our Leader and President (may God preserve and protect him). It reads as follows "To continue expelling those whose citizenship has not been proven, in coordination with the military authorities and according to the suitable manner and by the means available; there is no room for reluctance or refraining from doing so and he who hesitates to carry out his duties shall be called to account".

For your information, please inform us quickly.

(Signed)

Security Colonel
Director of Security in Arbil Governorate
24 August 1989

Document No. 10

BUREAU FOR THE ORGANIZATION OF THE NORTH - HEADQUARTERS

Ref: 28/4008 Date: 20 June 1987

From: Bureau for the Organization of the North - Headquarters
To: The Commanders of the First, Second and Fifth Army Corps

Subject: Procedure to deal with the villages that are out of bounds for security reasons

In view of the fact that the officially announced deadline for the amalgamation of these villages expires on 21 June 1987, we have decided that the following action should be taken with effect from 22 June 1987: (i) All the villages in which subversives, agents ofIran and similar traitors to Iraq are still to be found shall be regarded as out of bounds for security reasons; (ii) They shall be regarded as operational zones that are strictly out of bounds to all persons and animals and in which the troops can open fire at will, without any restrictions, unless otherwise instructed by our Bureau; (iii) Travel to and from those zones, as well as all agricultural, animal husbandry and industrial activities, shall be prohibited and carefully monitored by all the competent agencies within their respective fields of jurisdiction; (iv) The corps commanders shall carry out sporadic bombardments using artillery, helicopters and aircraft, at all times of the day or night in order to kill the largest number of persons present in those prohibited zones, keeping up informed of the results; (v) All persons caputred in those villages shall be detained and interrogated by the security services and those between the ages of 15 and 70 shall be executed after any useful information has been obtained from them, of which we should be duly notified; (vi) Those who surrender to the governmental or Party authorities shall be interrogated by the competent agencies for a maximum period of 3 days, which may be extended to 10 days, if necessary, provided that we are notified of such cases. If the interrogation requires a longer period of time, approval must be obtained from us by telephone or telegraph or through comrade Tahir al-Ani; (vii) Everything seized by the advisers and troops of the National Defence Brigades shall be retained by them, with the exception of heavy, mounted and medium weapons. They can keep the light weapons, notifying us only of the number of those weapons. The corps commanders shall promptly bring this to the attention of all the advisers, company commanders and platoon leaders and shall provide us with detailed information concerning their activities in the National Defence Brigades.

(signed) Comrade Ali Hassan al-Majeed

Member of the Regional Command and Secretary of the Bureau for the Organization of the North
[Stamp of the Revolution Command Council, Northern Affairs Committee]

cc: Chairman of the Legislative Council;
Chairman of the Executive Council;
Party Intelligence;
Chief of the Army General Staff;
Governors (Chairmen of the Security Committees) of Nineveh, Ta'mim, Diyala, Salahuddin, Sulaimaniya, Arbil and Dohuk;
Branch secretaries of the above-mentioned governorates;
General Directorate of Military Intelligence;
General Directorate of Security;
Director of Security of the Autonomous Region;
Security Services of the Northern Region;
Security Services of the Eastern Region;
Security Directors of the governorates of Nineveh, Ta'nim, Diyala, Salahuddin, Sulaimaniya, Arbil and Dohuk;

For information and action within your respective fields of jurisdiction. Keep us informed.

Document No. 11

Revolution Command Council

Decision No.: 680
Decision Date: 23 Rabi' I/1410 A.H.
23 October 1989 A.D.

Decision

Pursuant to the provisions of article 42, paragraph (a), of the Constitution, the Revolution Command Council decided as follows:

1. That Revolution Command Council Decision No. (1253) dated 4 August 1980 ceases to be in force.

2. That movable and immovable property, belonging to antagonistic parties or to their arrested or escaped elements, that has been confiscated but not sold yet or that to be confiscated in the future shall be handed over to the Finance Ministry.

3. That the Finance Ministry undertakes the sale of the said property according to the provisions of Act No. (32) of the year 1986 on selling and leasing the State property and that a ratio of (60 per cent) of the property sale return be credited as a conclusive revenue to the State treasury.

4. That a ratio of (40 per cent) of the said property sale return be referred to General Security Directorate in order to distribute it, according to certain criteria, among the distinguished of its staff whose efforts have led to uncovering the secret schemes of the antagonistic parties or actions that stipulated the confiscation of that property.

5. That the Minister of Finance and the Secretary of the President of the Republic undertake to put provisions of this decision into effect.

6. That this resolution shall take effect from the date of its issue.

(Signed)

Saddam Hussein
Chairman
Revolution Command Council

Document No. 12

Arab Baath Socialist Party
Dohuk Branch of the Party Leadership
Sarsank Division of the Party Leadership
Sarsank Company of the Party Leadership

A single Arab nation with
an eternal message

Ref: 1/...
Date: 16 June 1987

To: All Party organizations/divisions

Subject: Arab nationals

Comradely Greetings,

With reference to letter No. 1/1679 dated 14 June 1987 from Sarsank Division of the Party Leadership and letter No. 1/4776 dated 9 June 1987 from Dohuk Branch of the Party Leadership and further to confidential and private letter No. 1347 dated 24 May 1987 from Tamim Governorate/National Affairs Bureau transmitted under cover of confidential and private letter No. 55/6312 dated 3 June 1987 from Tamim Branch of the Party Leadership, and pursuant to the directives issued on 11 April 1987 by the Comrade Member of the Regional Leadership of the Party, Secretary of the Headquarters of the Bureau for the Organization of the North, it has been decided that Arab nationals residing in other governorates should be subject to the requirement concerning the transfer of their civil status records to Tamim governorate and should enjoy the prescribed privileges (a plot of land and the prescribed financial grant).

For your information. With regards.

Maintain the struggle!

(Signed)
Comrade
Mut'ib Assaf al-Saadoun
Secretary of Sarsank Company of the Party Leadership

Document No. 13

In the Name of God, the Merciful, the Compassionate

Directorate of Security, Dohuk Governorate/Political Department

Ref: 2241
Date: 10 February 1987

To: Directorate of Public Security / 45 Section M

Subject: Information

With reference to your letter No. 11881 dated 15 January 1987, having conducted a meticulous secret investigation concerning the person mentioned in your above letter, we have found out the following:

1.	Full name:	Zafestan Muhammad Salih Elias al-Nirui
2.	Previous address:	Kwani Residential Complex
3.	Present address:	Ziwah Ashkan village, out of bounds for security reasons.
4.	Place and date of birth:	1978
5.	Occupation:	Child
6.	Academic achievements:	Illiterate
7.	Political orientation:	Independent
8.	Ethnicity:	Kurdish
9.	Religion:	Muslim
10.	Name of mother:	Nafsheh Khudhr Ahmad
11.	Elements with whom she meets:	Fugitives and subversives
12.	Further information:	1. On 13 March 1982, together with her father Muhammad Salih Elias al-Nirui, she fled and joined the ranks of the subversives, the clique of "scions of treachery". 2. In accordance with Public Security letter No. M 64 Q 2/64735 dated 12 December 1982, it has been decided to confiscate her movable and immovable property. 3. In our opinion, a warrant should be issued for her arrest.

For your information. With regards.

(Signed)
Director of Security, Dohuk Governorate
9 February

Document No. 14

In the Name of God, the Merciful, the Compassionate

Office of the President of the Republic
The Secretary
General Directorate of Security
Sulaimaniya Security Directorate
Confidential

Ref: Section 3/11916
Date: 22 June 1990
29 Dhu'lqa'dah 1410 A.H.

To: Directorate of Security, Autonomous Region

Subject: Information

With reference to your cable No. 1025 dated 18 June 1990, we are enclosing herewith a list containing directives issued by the Headquarters of the Bureau for the Organization of the North and which could be annulled because they are no longer needed at the present stage. For information. With regards.

(Signed
Director of Security,
Sulaimaniya Governorate
22 June 1990

Manuscript note: Mr. Director. Herewith the decision requested by Your Excellency, as shown in the attached schedule. (Signed and dated 22 June).

(Directives issued by the Headquarters of the Bureau for the Organization of the North and which it has been proposed to annul)

Letter No.	Date	
226	4/9/1985	Imposition of blockade - cutting off of electricity and telephone lines - closure of schools - evacuation of government houses - cancellation of agricultural contracts - expulsion of families of subversives - seizure and confiscation of property belonging to subversives and their relatives (in order to evacuate all villages).
6476	9/11/1987	Prohibition of the registration of any citizen unless he was registered during the 7 October 1987 census, except with the approval of the Headquarters of the Bureau.

5731	8/9//1987	Not to keep more than 50 per cent of the National Defence Brigades at their fixed locations, the rest being mobilized to raid villages that are out-of-bounds for security reasons due to the presence therein of subversives. The National Defence Brigades should retain whatever they seize, with the exception of heavy weapons.
4008	20/6/1987	Prohibition of any form of life in the villages that are out-of-bounds for security reasons - death sentences to be carried out on persons in the age group 15-70 years.
2713	20/4/1987	Prohibition of the hearing of any kind of complaints submitted by inhabitants of villages that are out-of-bounds for security reasons and of cases concerning subversives, and suspension of proceedings that have been brought (since no villages are out-of-bounds at the present time).
6554	21/11/1988	Directives issued by the Comrade Secretary of the Bureau concerning reception of returnees and their assignment to combat duties under the supervision of security organs.
4438	7/9/1988	Ban on relocation from one governorate to another except in the case of job-related transfer. The Bureau for the Organizationn of the North should be informed in such cases.
1710	19/7/1988	Expropriation of land and demolished houses for the benefit of the State Treasury, subject to the granting of approval in that regard.
3321	6/7/1988	Ban on searches of any town without the approval of the Comrade Secretary of the Bureau for the Organization of the North.
1679	27/4/1988	The regulations contained in National Security Council letter No. 4268 dated 14 October 1985 should be applied to persons who fled the country.
1150	23/2/1989	Requests by parents for the lifting of the sequestration of their pensions due to the fact that their sons have returned to the national fold. The governorates, as well as the Ministry of Local Government, must be approached to lift, each within their respective fields of jurisdiction, the sequestration of pensions.

1146	23/2/1989	The leasing of agricultural land for purposes of summer planting shall be confined to plots of land irrigated by artesian wells and situated near towns (in order to expand the area currently allocated to agriculture).
105	5/1/1990	The committees in the governorates and districts shall be held responsible for any family living there without their knowledge (due to the absence of committees).

Document No. 15

In the name of God, the Merciful, the Compassionate

In the name of People
Revolution Command Council
Decision No.: 160
Decision Date: 29 March 1987

Decision

Pursuant to the provisions of article 42, paragraph (a), of the Constitution, and of article 43, paragraph (a), of the Constitution, and in implementation of what has been decided at the joint meeting of the Revolution Command Council and the Regional Leadership of the Arab Baath Socialist Party held on 18 March 1987.

The Revolution Command Council meeting on 29 March 1987 decided as follows:

Firstly: That comrade Ali Hassan al-Majeed, member of the Regional Leadership of the Arab Baath Socialist Party, shall represent the Party's Regional Leadership and the Revolution Command Council in the implementation of their policies throughout the Northern Region, including Kurdistan Autonomous Region, with the aim of protecting security and order and guaranteeing stability there and effecting the Autonomous Rule Legislation in the region.

Secondly: That, in order to achieve goals of this resolution, comrade member of the Regional Leadership, shall assume the authority to take decisions binding on all civil and military and security organs of the State, in particular authorities vested in the National Defence Council and the Northern Affairs Committee.

Thirdly: That the following parties found in the whole of the Northern Region shall be attached to comrade member of the Regional Leadership and shall observe decisions and directives issued by him, which are enforceable according to this decision:

1. Executive Council of Kurdistan Autonomous Region.
2. Governors of Governorates and heads of administrative units of the Autonomous Rule Ministry.
3. Organs of intelligence and internal security forces and military intelligence.
4. Commands of the Popular Army.

Fourthly: That military commands in the region shall abide by orders of comrade member of the Regional Leadership in all that concerns (firstly) of this resolution.

Fifthly: That this resolution shall take effect from the date of its issue until further notice, and that legal judgments contravening the provisions of this resolution shall be no more effective.

(Signed) Saddam Hussein
Chairman of Revolution Command Council

Document No. 16

Arab Baath Socialist Party / Iraqi Branch
Headquarters of the Office for the Organization of the North

No. 28/3650
Date: 3 June 1987

To: Commands of First, Second and Fifth corps,
Commands of branch offices,
Command of Salahuddin branch,
Command of Diyala branch,
Security Department of the Autonomous Region,
Security Department of the Governorate of Arbil,
Intelligence Department,
Military Intelligence Organization

Subject: Decision

1. Foodstuffs, persons and machines are strictly prohibited from entering villages in the prohibited security zone which are covered in the second phase of the village amalgamization. Any person wishing to return to the national fold is allowed to do so. However, relatives can be allowed to contact them only with the knowledge of the security authorities.

2. No one is allowed to be in phase 1 prohibited villages, nor in phase 2 villages until 21 June 1987.

3. The winter season for harvesting should end before 15 July. Agriculture should not be allowed to continue for the coming summer and winter periods.

4. Animal husbandry is also prohibited in these areas.

5. The military forces, within their respective sectors, have a duty to kill any person or animal found in these areas, to which access is strictly prohibited.

6. The persons covered by this decision shall be notified of their relocation to gathering centres. They shall be held responsible for non-compliance.

For information and action.

(signed) Comrade Ali Hassan al-Majid
Secretary-General of the Office
for the Organization of the North

Document No. 17

Decision No. 840
Date: 15 November 1988

Decision

Pursuant to the provisions of article 42, paragraph (a), of the Constitution, the Revolution Command Council adopted the following decision at its meeting held on 15 November 1988:

1. Final death sentences shall be deemed to be enforceable against persons on whom they are passed, for any offences, without the need for ratification by the President of the Republic. The competent authorities shall notify the Office of the President of the Republic of those sentences in order to keep it informed thereof.

2. This decision shall be deemed to amend the relevant provisions of the Constitution and the law concerning ratification of the execution of death sentences.

3. This decision shall become effective from the date of its publication in the Official Gazette and the competent Ministers and authorities shall be responsible for its implementation.

(Signed) Saddam Hussein
Chairman of the Revolution
Command Council

Document No. 18

Office of the President of the Republic

Date: 13/12/1988

To: Ministry of Defence/the Minister's Office
Ministry of Justice/the Minister's Office
Ministry of the Interior/the Minister's Office
Ministry of Work and Social Affairs/the Minister's Office
Presidency of the Revolutionary Court

Rectangular seal: General Directorate of Security
Legal Department
14 December

Subject: Execution of a sentence

Further to our letter No. G/2/41224 dated 16 November 1988, under which you are notified of the Revolution Command Council Decision No. 840 dated 15 November 1988. it has been decided as follows:

1. That cases in which death sentences are given shall be dispatched as soon as the judgements pronounced therein acquire finality.
2. That procedures to carry out death sentences shall be taken within a period of one month from the date when the said judgements have become final, unless it is decided that another action shall be taken of which you shall be notified, within the mentioned period, by Office of the President of the Republic.

Please take note along with the necessary action to put that into effect. Regards.

(Signed) Ahmed Hussein
Head of the Department of
Presidential Affairs

A copy to:
- Secretariat office of the country)
- National Assembly) Please take note.
- Office of the President of the Republic/The Secretary) Regards
- Office of the President of the Republic/National)
  Security Council Secretariat Office)
- Office of Member of the Revolution Command Council/
  First Deputy-Premier/To take note. Regards

Document No. 19

Written undertaking

I, the undersigned, Nouri Ali Redha Hassan, who benefited from Amnesty Decree issued by the Revolution Command Council on 6 September 1988, and who returned to the national fold through the Ainkawa Section of the Leadership, undertake to reside in the place designated for me at the centre of Arbil Governorate, Bens'lawa complex quarter, house number 3957 near _____. I undertake as well to refrain from any political action hostile to the Party and the Revolution and I shall be liable to death penalty in case of declaring wrong information or exercising antagonistic activities that contravene rules and regulations or in case that I change my residence without knowledge of the administration and the pa[illegible]s concerned. In witness whereof I signed approvingly in front of the committee on 3 October 1988.

Returnee's signature
Given names: Nouri Ali Redha Hassan
Number of the card in his possession

Returnee's left thumbprint

- -

((Undertaking))

I, the undersigned, Omar Redha Hassan Omar, resident of Arbil Governorate, Bens'lawa complex quarter, house number 3999, the nearest indicative point _____, uncle of the called Nouri Ali Redha Hassan, who has returned to the national fold on 3 October 1988 through the Ainkawa Section of the Leadership, undertake that my nephew refrains from any political or subversive activity against the Party and the Revolution, failing which I shall be held responsible for all his acts; and I shall assume the responsibility and undertake to hand him over to the Headquarters of Ainkawa Section of the Leadership whenever requested to do so. And I commit myself, in case of changing my family's residence, to call at the Headquarters of the Section of the Leadership to give my new residence address. In witness whereof I signed, assuming, in case of failing any paragraph of the above obligations, all legal liabilities.

Acknowledgement of
Omar Redha Hassan Omar
Uncle of the returnee to the national fold
on the date of 3 October 1988

Document No. 20

A Single Arab Nation with an Eternal Message

Arab Baath Socialist Party
Salahuddin Division of the Party Leadership
Rawanduz Company of the Party Leadership

Ref: 52/461 Date: 19 April 1988
To: All member cells

Subject: Directives

Comradely Greetings,

The directives issued by the Division of the Party Leadership are as follows:

1. Families arriving from subversive areas should be treated as subversives and Party organizations shall make inquiries, collect information and duly inform the security authorities of the presence of such families.
2. The Party apparatus shall be responsible for ensuring that the geographical area in which it operates is free from the families mentioned in paragraph 1 above. The district headmen shall be notified that, if they fail to report the arrival of any family in their districts, they shall be detained together with their families and their houses shall be demolished; if they are unaware that such a family has arrived, they shall be detained for a period of three days.
3. If five or more such families are found in a residential district, its headman shall be executed.
4. It is strictly prohibited to hand over any subversives to the National Defence Brigades, since they should be handed over only to the Security. As far as the Party organs are
concerned, they too should hand over subversives who surrender with their weapons to the Security.
5. Ministers of religion should be mobilized, visited and encouraged to expose subversives and their hireling leaders.
6. Party organizations shall collect full indexed information on subversives returning to the national fold.

The information collected concerning the internal organizations and families of the subversives shall be classified by place of residence and each family shall be indexed

separately, the indexes being transmitted to the Company Leadership within one week. Please take note. With regards.
Maintain the Struggle!

(Signed)
Zeidan Atiyya
p.p. Secretary of Rawanduz Company of the Party.

Manuscript note: To be submitted to the Party meeting.

Document No. 21

In the Name of God, the Merciful, the Compassionate

Shaqlawa Security Directorate/Section 3

Ref: 3081
Date: 15 August 1987

To: Sub-Directorates

Subject: Released political prisoners

In its letter No. 8242 dated 8 August 1987, Arbil Security has notified us as follows:

From time to time, our President and Leader Saddam Hussein (may God preserve him) graciously orders the release of a number of political prisoners sentenced to death after they have dissociated themselves from the political party to which they belonged, criticized its previous course of action and treacherous policy, expressed their full allegiance to the soil of this cherished homeland and defended it against external challenges and machinations. In order to document the act of dissociation on the part of the convicts released by virtue of such gracious orders, the following procedure must be observed prior to their release. Each person to be released must:

1. Make a handwritten statement dissociating himself from the political party to which he belonged. This statement, containing his full name, should be signed and dated.

2. Make a handwritten statement criticizing and condemning the political party to which he belonged. This statement, containing his full name, should be signed and dated.

3. Make a handwritten statement expressing his full allegiance to the soil of this cherished homeland and his eager desire to defend it against external challenges and machinations. This statement, containing his full name, should be signed and dated

4. The act of dissociation, condemnation and allegiance to the soil of this homeland made by the person to be released should be recorded on a video tape.

You are requested to take note and act in accordance with the above paragraphs when similar cases arise. Please advise.

(Signed)
Security Major
Director, Shaqlawa Security
17 August 1987

Manuscript note: Have taken note and will act accordingly. (Signed and dated 17 August).

Document No. 22

(Text of the letter)

With regard to criminal elements of the Da'wa hireling Party who are sentenced to death and whom our Leader and President (may God preserve him) orders to present a letter of disavowal, to be read to them for a period of three days so as to be sure of their sincerity, after which a decision is to be issued commuting the death penalty to life imprisonment, it has been decided to proceed as follows:

1. They shall carry out the death sentences passed on members of their clique.
2. They shall be entrusted, each within his capacity, with preparing studies on the party's concepts and principles regarding various issues, and shall be provided with references on condition that all are derived from our Party's heritage, literature and viewpoints and the rich, guiding thoughts of our Leader and President (may God preserve him).
3. The procedure specified in paragraph 2 above shall be put into general practice, having been applied to all prisoners sentenced to shorter terms for political and security reasons.

Please take the necessary action in that regard and inform us. Regards.
(Signed)

Ahmed Hussein
Head of the Department of Presidential Affairs

In the name of God, the Merciful, the Compassionate

(Highly Confidential and Personal)

Ministry of the Interior
General Directorate of Security

Ref.: 32/M4/
Date: 28 October 1984
To: Notification List ("A")

Subject: Instructions

Above is the text of Department of Presidential Affairs letter No. M.H/1/2080 dated 14 October 1984. Please implement its provisions and advise. Regards.

(Signed)
p.p./Director of Public Security

Manuscript notes:

- Political section/32
- Highly confidential and personal. To be circulated to regions. Political sections (Signed: the Director)
- A rectangular seal (bearing the name of Directorate of Security ... date: 2 November)
- M/..

Document No. 23

In the Name of God, the Merciful, the Compassionate

Office of the President of the Republic
The Secretary
General Directorate of Military Intelligence
Military Intelligence Organization, Eastern Region

(The martyrs will remain the noblest of us all!)

Please quote the full reference number

Ref: Section 3/Division 3/Saddam's Qadisiya/7980
Date: 29 June 1988

To: General Directorate of Military Intelligence (Section 3)

Highly Confidential

Subject: Information

1. At the beginning of the present month of June, a public security emergency squad, under the command of combatant Sabir Bejgoul, was dispatched to search the demolished village of Shaikh Tawil in the administratively cancelled sub-district of Bibaz.

2. The above-mentioned squad arrested Fattah Muhammad Rasoul, a mentally retarded resident of the said village. The squad killed that person, decapitated him and took his head to the General Directorate of Security, leaving his body behind and claiming that he was a member of the clique of agents of Iran. Relatives of the dead man buried his body in the sub-district of Bibaz. A photograph of the dead man is enclosed herewith.

You are kindly requested to take note.

Enclosures:
1. Photograph of the dead man.

(Signed)
Staff Colonel
Director of Military Intelligence Organization, Eastern Region
29 June

(1 - 1)
Highly Confidential)

Annex II:

THE ANFAL OPERATIONS

Table 1

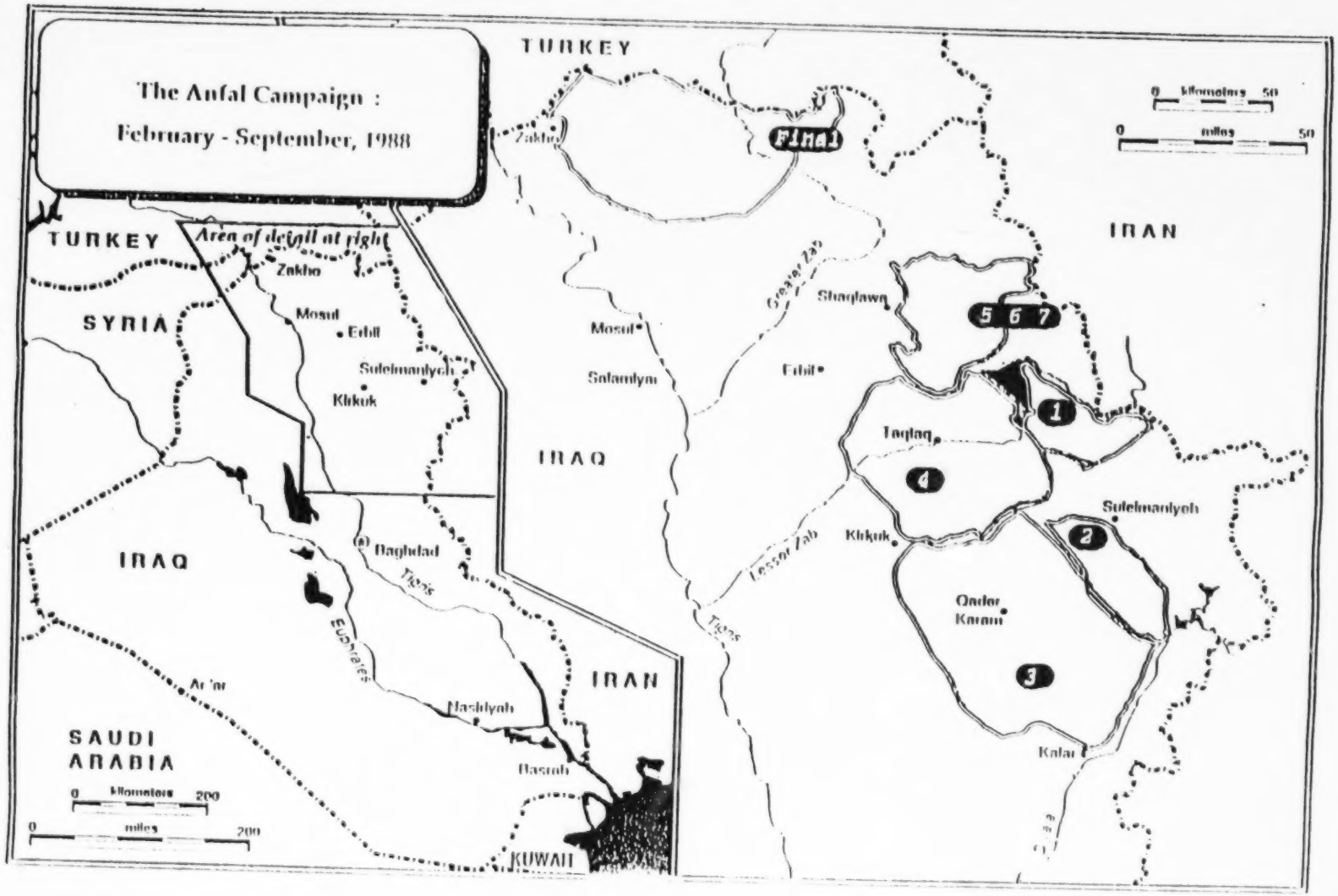
Operation	Dates	Place	Features
Anfal I	23/2/88 to 19/3/88	Jaffati Valley	Prolonged siege on PUK headquarters at Sergalu. Attack on Halabja (further south) demoralized PUK. Defeat of PUK at Sergalu.
Anfal II	22/3/88 to 1/4/88	Qaradagh sub-district	Barely any military resistance, except at Zerda Mountain. All men captured. Families who fled to Suleimaniyeh saved; to Kalar: disappeared.
Anfal III	7/4/88 to 20/4/88	Germian Plain	Barely any military resistance. Many families captured and disappeared.
Anfal IV	3/5/88 to 8/5/88	Valley of the Lesser Zab	Barely any military resistance. Many families captured and disappeared.
Anfal V	15/5/88 to 7/6/88	Valleys of Shaqlawa and Rawanduz	Fierce PUK resistance. The Government campaign stalled and was postponed. Few families were in the area.
Anfal VI	30/7/88 to mid-August/88	Valleys of Shaqlawa and Rawanduz	Military resistance was encountered from the PUK.
Anfal VII	Mid-August/88 to 28/8/88	Valleys of Shaq-lawa and Rawanduz	PUK resistance collapses and rebels flee to Iran.
Anfal VIII "Final Anfal"	25/8/88 to 6/9/88	Badinan region	Barely any military resistance. No families disappeared, except Christians & Yazidis after amnesty announcement. KDP defeated.

Table 2

Operation	Dates	Place	Chemical Weapons Use	
			Specific Locations	Number of Incidents
Anfal I	23/2/88 to 19/3/88	Jaffati Valley	Sergalu, Bergalu, Yaghsamer, Haladin, Sekaniyan, Shanakhseh, and Gojar Mountain	Multiple and repeated
Anfal II	22/3/88 to 1/4/88	Qaradagh sub-district	Saywsenan, Balakajar, Dukan, Masoyi, and Zerda Mountain	Single attacks on these villages
Anfal III	7/4/88 to 20/4/88	Germian Plain	Tazashar village (and two other possible locations)	Single attacks on villages and/or pockets of PUK resistance
Anfal IV	3/5/88 to 8/5/88	Valley of the Lesser Zab	Goktapa and Askar	Single attack on May 3
Anfal V	15/5/88 to 7/6/88	Valleys of Shaqlawa and Rawanduz	Wara, Balisan, Nazanin, Sheikh Wasan, Bileh, Seran, Garawan, Akoyan, and Faqian	Attack on Wara on 15/5, followed by repeated attacks elsewhere on 23/5 and thereafter
Anfal VI	30/7/88 to mid-August/88	Valleys of Shaqlawa and Rawanduz	Balisan, Malakan, Warta, Hiran and Smaquli valleys	Multiple and repeated
Anfal VII	Mid-August/88 to 28/8/88	Valleys of Shaqlawa and Rawanduz	Balisan, Malakan, Warta, Hiran and Smaquli valleys	Multiple and repeated
Anfal VIII "Final Anfal"	25/8/88 to 6/9/88	Badinan region	Large number of villages	Many villages on 25/8 only

Table 3

Operation	Dates	Place	Effects		
			Men	Women & Kids	Elderly
Anfal I	23/2/88 to 19/3/88	Jaffati Valley	Most escaped; returnees disappeared	Most escaped; scores died during flight	Most escaped; some detained in Nugrat Salman Prison
Anfal II	22/3/88 to 1/4/88	Qaradagh sub-district	Captured and disappeared	Suleim.: saved Kalar: disappeared or detained in Dibs	Suleim.: saved Kalar: detained in Nugrat Salman
Anfal III	7/4/88 to 20/4/88	Germian Plain	Captured and disappeared	Mostly disappeared or taken to Dibs	Detained in Nugrat Salman
Anfal IV	3/5/88 to 8/5/88	Valley of the Lesser Zab	Captured and disappeared	Most captured and disappeared or detained in Dibs	Detained in Nugrat Salman
Anfal V	15/5/88 to 7/6/88	Valleys of Shaq-lawa and Rawanduz	Captured and disappeared	Captured and disap. or taken to Dibs	Detained in Nugrat Salman
Anfal VI	30/7/88 to mid-August/88	Valleys of Shaq-lawa and Rawanduz	Captured and disappeared	None	None
Anfal VII	Mid-August/88 to 28/8/88	Valleys of Shaq-lawa and Rawanduz	Captured and disappeared	None	None
Anfal VIII "Final Anfal"	25/8/88 to 6/9/88	Badinan region	Captured and disappeared	Captured and released in Baharka	Captured and released in Baharka


The Anfal Campaign :
February - September, 1988
TURKEY
Area of detail at right
Zakho
SYRIA
Mosul
Erbil
Sulelmaniyah
Kirkuk
IRAQ
Baghdad
Tigris
Euphrates
Ar 'ar
SAUDI ARABIA
Nashiyah
Basrah
KUWAIT
IRAN
Zakho
FINAL
Mosul
Salamiyah
Greater Zab
Shaqlawa
Erbil
5 6 7
1
Taqtaq
4
Kirkuk
Lesser Zab
Tigris
Sulelmaniyah
2
Qader Karam
3
Kalar
0 kilometers 200
0 miles 200
0 kilometers 50
0 miles 50